District of Columbia Code

1961 EDITION ☆ SUPPLEMENT II

1963

TITLES 1–49

TABLES AND INDEX

DISTRICT OF COLUMBIA CODE

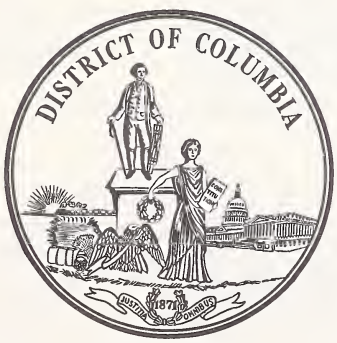
1961 EDITION

SUPPLEMENT II

LAWS—January 3, 1961, to January 8, 1963

NOTES TO DECISIONS—January 1, 1961, to July 31, 1962

Prepared and Published Under Authority of Sections 202, 203 of Title 1, United States Code,
by the Committee of the Judiciary of the House of Representatives



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1963

For sale by the Superintendent of Documents, U S. Government Printing Office
Washington 25, D.C. - Price $1.50

HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

UNDER WHOSE DIRECTION THIS SUPPLEMENT HAS BEEN PREPARED

COMMITTEE ON THE JUDICIARY
EIGHTY-SEVENTH CONGRESS

EMANUEL CELLER, New York, *Chairman*

FRANCIS E. WALTER, Pennsylvania
THOMAS J. LANE, Massachusetts
MICHAEL A. FEIGHAN, Ohio
FRANK CHELF, Kentucky
EDWIN E. WILLIS, Louisiana
PETER W. RODINO, JR., New Jersey
E. L. FORRESTER, Georgia
BYRON G. ROGERS, Colorado
HAROLD D. DONOHUE, Massachusetts
JACK BROOKS, Texas
WILLIAM M. TUCK, Virginia
ROBERT T. ASHMORE, South Carolina
JOHN DOWDY, Texas
BASIL L. WHITENER, North Carolina
ROLAND V. LIBONATI, Illinois
J. CARLTON LOSER, Tennessee
HERMAN TOLL, Pennsylvania
ROBERT W. KASTENMEIER, Wisconsin
M. BLAINE PETERSON, Utah
JACOB H. GILBERT, New York
WILLIAM M. McCULLOCH, Ohio
WILLIAM E. MILLER, New York
RICHARD H. POFF, Virginia
WILLIAM C. CRAMER, Florida
ARCH A. MOORE, JR., West Virginia
GEORGE MEADER, Michigan
JOHN V. LINDSAY, New York
WILLIAM T. CAHILL, New Jersey
GARNER E. SHRIVER, Kansas
CLARK MacGREGOR, Minnesota
CHARLES McC. MATHIAS, JR., Maryland
JAMES F. BATTIN, Montana
JAMES E. BROMWELL, Iowa
CARLETON J. KING, New York

BESS E. DICK, *Staff Director*

SUBCOMMITTEE NO. 3

EDWIN E. WILLIS, Louisiana, *Chairman*

WILLIAM M. TUCK, Virginia
ROLAND V. LIBONATI, Illinois
J. CARLTON LOSER, Tennessee
HERMAN TOLL, Pennsylvania
ROBERT W. KASTENMEIER, Wisconsin
WILLIAM C. CRAMER, Florida
JOHN V. LINDSAY, New York
CHARLES McC. MATHIAS, JR., Maryland
JAMES F. BATTIN, Montana

CHARLES J. ZINN, *Law Revision Counsel*
JOSEPH FISCHER, *Assistant Law Revision Counsel*

TITLES OF DISTRICT OF COLUMBIA CODE

PART I—GOVERNMENT OF DISTRICT (JUDICIARY EXCEPTED)

PART II—CIVIL PROCEDURE

PART III—PROBATE LAW AND PROCEDURE

PART IV—CRIMINAL LAW AND PROCEDURE

PART V—GENERAL STATUTES

CONTENTS

PREFACE

This second supplement to the District of Columbia Code, containing the additions to and changes in the general and permanent laws relating to or in force in the District of Columbia (except such laws as are of application in the District of Columbia by reason of being general and permanent laws of the United States), enacted during the Eighty-seventh Congress, has been prepared and published by the Committee on the Judiciary of the House of Representatives under authority of Sections 202, 203 of Title 1, United States Code. This supplement, together with the 1961 edition, contains the laws of the District of Columbia in force on January 8, 1963.

The 1961 edition of the Code was completely annotated with notes to decisions of the courts affecting the respective sections of the Code. These notes have been brought up to July 31, 1962, in this supplement.

The Committee gratefully acknowledges the assistance of Dr. Charles J. Zinn, law revision counsel of the Committee, and his staff, and of all others who have helped in the preparation of this supplement.

The Committee again invites suggestions and criticisms by users of the Code.

Emanuel Celler

Chairman, Committee on the Judiciary

E. E. Willis

Chairman, Subcommittee No. 3
Committee on the Judiciary

WASHINGTON, D.C.
January 8, 1963

CONSTITUTION OF THE UNITED STATES OF AMERICA

Article [XXIII]

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

Proposal and Ratification

This amendment was proposed by the Eighty-sixth Congress on June 16, 1960 and was declared by the Administrator of General Services on Apr. 3, 1961, to have been ratified.

The amendment was ratified by the following States: Hawaii, June 23, 1960; Massachusetts, Aug. 22, 1960; New Jersey, Dec. 19, 1960; New York, Jan. 17, 1961; California, Jan. 19, 1961; Oregon, Jan. 27, 1961; Maryland, Jan. 30, 1961; Idaho, Jan. 31, 1961; Maine, Jan. 31, 1961; Minnesota, Jan. 31, 1961; New Mexico, Feb. 1, 1961; Nevada, Feb. 2, 1961; Montana, Feb. 6, 1961; Colorado, Feb. 8, 1961; Washington, Feb. 9, 1961; West Virginia, Feb. 9, 1961; Alaska, Feb. 10, 1961; Wyoming, Feb. 13, 1961; South Dakota, Feb. 14, 1961; Delaware, Feb. 20, 1961; Utah, Feb. 21, 1961; Wisconsin, Feb. 21, 1961; Pennsylvania, Feb. 28, 1961; Indiana, Mar. 3, 1961; North Dakota, Mar. 3, 1961; Tennessee, Mar. 6, 1961; Michigan, Mar. 8, 1961; Connecticut, Mar. 9, 1961; Arizona, Mar. 10, 1961; Illinois, Mar. 14, 1961; Nebraska, Mar. 15, 1961; Vermont, Mar. 15, 1961; Iowa, Mar. 16, 1961; Missouri, Mar. 20, 1961; Oklahoma, Mar. 21, 1961; Rhode Island, Mar. 22, 1961; Kansas, Mar. 29, 1961; Ohio, Mar. 29, 1961, and New Hampshire, Mar. 30, 1961.

Certification of Validity

Publication of the certifying statement of the Administrator of General Services that the Amendment had become valid was made on Apr. 3, 1961, F.R. Doc. 61–3017, 26 F.R. 2808.

DISTRICT OF COLUMBIA CODE
1961 Edition

SUPPLEMENT II

LAWS—January 3, 1961, to January 8, 1963

NOTES TO DECISIONS—January 1, 1961, to July 31, 1962

THE CODE OF THE DISTRICT OF COLUMBIA

PART I

GOVERNMENT OF DISTRICT

[Judiciary Excepted]

TITLE 1.—ADMINISTRATION

Chapter 2.—COMMISSIONERS AND OTHER OFFICERS

§ 1–224. Police regulations authorized in certain cases.

* * * * *

Seventh. To regulate the keeping of dogs and fowls.

* * * * *

(As amended Sept. 13, 1961, 75 Stat. 498, Pub. L. 87–227, § 3.)

AMENDMENT

1961—Section 3 of act Sept. 13, 1961, amended paragraph "Seventh" of the section by striking out the words "and running at large", so that the paragraph now reads, "To regulate the keeping of dogs and fowls."

EFFECTIVE DATE OF 1961 AMENDMENT

Section 4 of act Sept. 13, 1961, makes this Amendment "effective thirty days after the date of its approval" [Sept. 13, 1961].

CROSS REFERENCE

For Commissioners' authority to make regulations regarding dogs, see section 1–224b in this supplement.

§ 1–224b. Regulations for the keeping and running at large of dogs.

The Commissioners of the District of Columbia are hereby authorized and empowered to make, modify, and enforce regulations in and for the District of Columbia to regulate the keeping and leashing of dogs and to regulate or prohibit the running at large of dogs, including penalties for violations of such regulations as provided in section 1–224a. (Sept. 13, 1961, 75 Stat. 498, Pub. L. 87–227, § 1.)

EFFECTIVE DATE

Section 4 of act Sept. 13, 1961, makes this section "effective thirty days after the date of its approval" [Sept. 13, 1961].

CROSS REFERENCES

For other provisions relating to keeping and handling of dogs, see sections 1–230, 22–1111, 47–2003, and 47–2004.

§ 1–243. Rent for quarters.

TERM OF LEASE

REPEATED

Section 12 of the District of Columbia Appropriations Act, Oct. 23, 1962, 76 Stat. 1154, Pub. L. 87–867, provided that: "Appropriations in this Act shall be available when authorized by the Commissioners, for the rental of quarters without reference to section 6 of the District of Columbia Appropriation Act, 1945."

§ 1–263. Advancement of moneys by disbursing officer.

The disbursing officials designated by the Commissioners are authorized to advance to such officials as may be approved by the Commissioners such amounts and for such purposes as the Commissioners may determine. (Sept. 21, 1961, 75 Stat. 564, Pub. L. 87–265, § 7.)

SIMILAR PROVISIONS

1962—Oct. 23, 1962, 76 Stat. 1154, Pub. L. 87–867, § 7.

Section was enacted as part of the District of Columbia Appropriation Act 1962, act Sept. 21, 1961. Similar provisions are contained in appropriation act Apr. 8, 1960, 74 Stat. 30, Pub. L. 86–412, § 7. For other similar provisions see main volume of the Code.

Chapter 3.—OFFICERS AND EMPLOYEES GENERALLY

§ 1–311. Compensation of injured employees.

CODIFICATION

Act Oct. 3, 1961, 75 Stat. 751, Pub. L. 87–339, amended section 104 of the Federal Employees Compensation Act Amendments of 1960 [act Sept. 13, 1960, 74 Stat. 906, Pub. L. 86–767] by inserting into the first proviso the following: ", except that this section shall apply to employees of the government of the District of Columbia other than members of the police and fire departments who are pensioned or pensionable under the provisions of the Policemen and Firemen's Retirement and Disability Act." [§§ 4–521 to 4–538].

Section 104 of the Federal Employees Compensation Act Amendments of 1960, is set out as a note to 5 U.S.C. 790.

Chapter 4.—COMMISSIONERS OF DEEDS

§ 1–401. Repealed. Sept. 25, 1962, 76 Stat. 594, Pub. L. 87–694, § 1.

Section of act Mar. 3, 1901, 31 Stat. 1279, ch. 854, § 557, related to the appointment of commissioners of deeds, by the President of the United States.

§ 1–402. Omitted.

AMENDMENT

Section 2 of act Sept. 25, 1962, Pub. L. 87–694, 76 Stat. 594, amended act Mar. 3, 1901, 31 Stat. 1279, ch. 854, § 559, which was this section, by striking the words "commissioners of deed and" making the section no longer applicable to commissioners of deeds, and since section 1–401 was repealed by section 1 of the same act, it is omitted. The same section of act Mar. 3, 1901, relating to notaries public is set out as § 1–502.

Chapter 5.—NOTARIES PUBLIC

§ 1–502. Tenure of office.

AMENDMENT

1962—Section 2 of act Sept. 25, 1962, Pub. L. 87–694, 76 Stat. 594, amended section by striking the words "commissioners of deeds and". See note to section 1–402. Sections 1–402 and 1–502 were both based on act Mar. 3, 1901, 31 Stat. 1279, ch. 854, § 559.

Chapter 7.—INSPECTION—REGULATORY PROVISIONS

NOTES TO DECISIONS

1. Judicial notice

Judicial notice would not be taken that incompetent repairman might injure or kill telephone user by connecting television lead-in to high voltage in television set. *R. A. Harris et al.* v. *W. N. Tobriner et al.* (1962, 304 F. 2d 377, — U.S. App. D.C. —).

In view of electrical contractor's denial that incompetent repairman could cause injury by running of television lead-in wires and telephone wires in same conduit such hazard must be established by competent evidence before Board of Appeals and Review. *Id.*

2. Record on appeal

Review by district court of order of District of Columbia Board of Appeals and Review directing electrical contractor to remove lead-in wires for master television system from conduits already containing telephone wires should have consisted of full hearing upon record of proceedings before Board and summary judgment should not have been granted against contractor. *R. A. Harris et al.* v. *W. N. Tobriner et al.* (1962, 304 F. 2d 377, — U.S. App. D.C. —).

Chapter 8.—CONTRACTS

§ 1–804. Bond of contractors, laborers, materialmen—Right to sue, intervene—Surety—Liability—Limitations—Notice.

NOTES TO DECISIONS

3. Construction

Statute regarding furnishing of contractor's payment bond for any public building is to be liberally construed in favor of those who contribute labor or materials for public works. *Humphreys & Harding, Inc. et ano.* v. *District of Columbia etc.* (1961, 293 F. 2d 150, 110 U.S. App. D.C. 311).

6. Liability under prime contractor's bond

Under statute requiring contractor for public building to give a contractor's payment bond to pay all persons supplying labor or materials, contractor, which placed verbal order for pilings with lumber company, which had plaintiff creosote pilings as required by contract, was liable when lumber company failed to pay plaintiff fully for creosote work. *Humphreys & Harding, Inc. et ano.* v. *District of Columbia etc.* (1961, 293 F. 2d 150, 110 U.S. App. D.C. 311).

Under statute regarding the furnishing of a contractor's payment bond for construction of any public building, it is not necessary that a supplier of materials have any contractual relationship with the prime contractor. *Id.*

Chapter 9.—CLAIMS AGAINST DISTRICT

§ 1–922. Negligent operation of vehicles by employees—Defense of governmental immunity—Exception.

NOTES TO DECISIONS

1. Constitutionality

District of Columbia Employee Non-Liability Act which was made effective in any action pending at effective date of act, unconstitutionality deprived motorist and his insurer of common-law right of action to recover against ambulance driver for District of Columbia, who was on an emergency run at time that he struck automobile before effective date of statute on proof of ordinary negligence and allowing recovery against the District of Columbia only on proof of gross negligence. *G. P. Barrick et ano.* v. *District of Columbia* (D.C. Mun. App. 1961, 173 A. 2d 372; aff'd 302 F 2d 927).

Claims of unconstitutionality of statute immunizing District of Columbia policemen from liability for acts performed within the scope of their employment and providing instead for an action against the District, were insubstantial, and did not require the convening of a three-judge court to dispose of them. *R. J. Rohrlack* v. *T. R. Goff, E. J. Taylor and District of Columbia* (1961, 197 F. Supp. 670).

2. Construction

District of Columbia Employee Non-Liability Act which provides for waiver of governmental immunity and makes District of Columbia liable, in case of an emergency vehicle, only for gross negligence, had no application to accident involving police vehicle which occurred some five months prior to enactment of statute. *R. L. Gibbs* v. *District of Columbia* (D.C. Mun. App. 1962, 180 A. 2d 891).

Resolution of conflicting interests among District of Columbia employees, the District itself, and persons injured through negligence of District employees acting within scope of their employment, was a permissible legislative object, and District of Columbia Employee Non-Liability Act providing that in any pending action against an employee in which the District was not named as the defendant, the District should be joined as a defendant and the employee dismissed, was not unconstitutional in its prospective operation. *G. P. Barrick et ano.* v. *District of Columbia* (D.C. Mun. App. 1961, 173 A. 2d 372; aff'd 302 F. 2d 927).

District of Columbia Employee Non-Liability Act, which was made effective in any civil action or proceeding pending in any court in the District of Columbia as of the effective date of the act was intended to apply retroactively as well as prospectively. *Id.*

3. Reasonableness of legislation

Statute immunizing District of Columbia policemen from liability for acts performed within the scope of their employment and providing instead an action against the District, but limiting the liability of the District for acts committed in emergency vehicles during emergency runs to acts of gross negligence, constituted a reasonable exercise of police power. *R. J. Rohrlack* v. *T. R. Goff, E. J. Taylor and District of Columbia* (1961, 197 F. Supp. 670).

Due process prevents only such retroactive legislation as is unreasonable and fact that positions held before enactment of legislation are adversely affected by it does not render such legislation per se unreasonable. *Id.*

Retrospective application of statute immunizing District of Columbia policemen from liability for act performed within the scope of their employment resulting in dismissal of action against policeman who had been involved in automobile collision, was not unreasonable where there was no claim that plaintiff's conduct would have been different if immunity rule had been known or change foreseen at time of accident. *Id.*

§ 1–925. Action against District employees barred for negligent operation of vehicles—Exception.

NOTES TO DECISIONS

1. Constitutionality

District of Columbia Employee Non-Liability Act which was made effective in any action pending at effective date of act, unconstitutionally deprived motorist and his insurer of common-law right of action to recover against ambulance driver for District of Columbia, who was on an emergency run at time that he struck automobile before effective date of statute on proof of ordinary negligence and allowing recovery against the District of Co-

lumbia only on proof of gross negligence. *G. P. Barrick et ano.* v. *District of Columbia* (D.C. Mun. App. 1961, 173 A. 2d 372).

2. Construction

District of Columbia Employee Non-Liability Act which provides for waiver of governmental immunity and makes District of Columbia liable, in case of an emergency vehicle, only for gross negligence, had no application to accident involving police vehicle which occurred some five months prior to enactment of statute. *R. L. Gibbs* v. *District of Columbia* (D.C. Mun. App. 1962, 180 A. 2d 891).

Resolution of conflicting interests among District of Columbia employees, the District itself, and persons injured through negligence of District employees acting within scope of their employment, was a permissible legislative object, and District of Columbia Employee Non-Liability Act providing that in any pending action against an employee in which the District was not named as the defendant, the District should be joined as a defendant and the employee dismissed, was not unconstitutional in its prospective operation. *G. P. Barrick et ano.* v. *District of Columbia* (D.C. Mun. App. 1961, 173 A. 2d 372).

District of Columbia Employee Non-Liability Act, which was made effective in any civil action or proceeding pending in any court in the District of Columbia as of the effective date of the act was intended to apply retroactively as well as prospectively. *Id.*

Chapter 11.—ELECTIONS

§ 1–1101. Election of electors of President and Vice President, and officials of political parties.

In the District of Columbia electors of President and Vice President of the United States and the following officials of political parties in the District of Columbia shall be elected as provided in this chapter:

(1) National committeemen and national committee women;

(2) Delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(3) Alternates to the officials referred to in clauses (1) and (2) above, where permitted by political party rules; and

(4) Such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election at large in the District of Columbia. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 1; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87–389, § 1(1).)

Amendments

1961—Section 1(1), act Oct. 4, 1961, amended the section by inserting at the beginning thereof the words: "In the District of Columbia electors of President and Vice President of the United States and".

Section 1(25), act Oct. 4, 1961, amended the title of the chapter to read as follows: "An Act to regulate the election in the District of Columbia of electors of President and Vice President of the United States and of delegates representing the District of Columbia to national political conventions, and for other purposes."

Applicability of Federal Voting Assistance Act

Section 2(c), act Oct. 4, 1961, provided that: "For the purposes of the Federal Voting Assistance Act of 1955, the word 'State' shall be deemed to include the District of Columbia." This act is set out in 5 U.S.C. 2171 et seq.

Cross References

For definition of "State" and executives of each State as including the District of Columbia and its Board of Commissioners, see 1 U.S.C. 21.

For provisions of constitutional amendment [Articles XXIII] granting the District of Columbia authority to appoint electors of President and Vice President see page XI in this supplement.

§ 1–1102. Definitions.

For the purposes of this chapter—

(1) The term "District" means the District of Columbia.

(2) The term "qualified elector" means a citizen of the United States (a) who does not claim voting residence or right to vote in any State or Territory; and who, for the purpose of voting in an election under this chapter, has resided in the District continuously since the beginning of the one-year period ending on the day of such election; (b) who is, or will be on the day of the next election, twenty-one year old; (c) who has never been convicted of a felony in the United States, or if he has been so convicted, has been pardoned; and (d) who is not mentally incompetent as adjudged by a court of competent jurisdiction.

(3) The term "Board" means the Board of Elections for the District of Columbia provided for by section 1–1103. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 2; Oct. 4, 1961, 75 Stat. 820, Pub. L. 87–389, § 1(26).

Amendment

1961—Section 1(26), act Oct. 4, 1961, amended clause (a) of par. (2) of the section to read as above set out. The wording of the clause before this amendment is set out in the main volume of the Code.

§ 1–1103. Board of elections—Terms of office.

Amendment

1961—Section 1(2), act Oct. 4, 1961, Pub. L. 87–389, amended the section by inserting at the end thereof the following sentence: "The said Commissioners shall from time to time designate the Chairman of the Board."

§ 1–1105. Functions and authority of Board.

(a) The Board shall—

(1) maintain a registry, keeping it accurate and current;

(2) conduct registrations and elections;

(3) provide for recording and counting votes by means of ballots or machines or both and not less than five days before each election held pursuant to this chapter, publish in one or more newspapers of general circulation in the District a copy of the official ballot to be used in any such election;

(4) divide the District into appropriate voting precincts, each of which shall contain at least three hundred and fifty registered persons;

(5) operate polling places;

(6) develop and administer procedures for absentee registration for and voting in any election held under this chapter by any person included within the categories referred to in paragraphs (1), (2), (3), or (4) of section 101 of the Federal Voting Assistance Act of 1955 (69 Stat. 584) [5 U.S.C. 2171].

(7) certify nominees and the results of elections; and

(8) perform such other duties as are imposed upon it by this chapter.

(b) Each member of the Board and persons authorized by the Board may administer oaths to persons executing affidavits pursuant to sections 1–1107 and 1–1108. It may provide for the administering of such other oaths as it considers appropriate to require in the performance of its functions.

(c) The Board may prescribe such regulations as it considers necessary to carry out the purposes of this chapter, including, a regulation permitting persons not absent from the District but who are physically unable to appear personally at an official registration place, to register in the manner prescribed in such regulation for the purpose of voting in any election held pursuant to this chapter.

(d) The Board may employ necessary personnel, at such rates of compensation as may be fixed by the Commissioners of the District of Columbia, without reference to the provisions of the Classification Act of 1949, as amended. (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 5; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87–389, § 1 (3), (4), (5), (6).)

REFERENCES IN TEXT

The Classification Act of 1949, as amended, referred to in subsec. (d), is classified to U.S. Code, title 5, chapter 21.

AMENDMENTS

1961—Section 1(3), act Oct. 4, 1961, amended par. (1) of subsection (a) by striking out, "permanent".

Section 1(4), of same act, amended par. (3) of subsection (a) to read as above set out. The original wording of par. (3) is set out in the main volume of the Code.

Section 1(5) of the same act, amended the first sentence of subsection (b) by striking the words: "the Board, and persons authorized by it" and inserting in lieu thereof the words: "Each member of the Board and persons authorized by the Board" and by striking the period at the end of subsection (c) and inserting the following: ", including, a regulation permitting persons not absent from the District but who are physically unable to appear personally at an official registration place, to register in the manner prescribed in such regulation for the purpose of voting in any election held pursuant to this chapter."

Section 1(6) of the same act renumbered pars. (6) and (7) of subsection (a) as pars. (7) and (8) and inserted a new par. (6) as above set out.

§ 1–1106. Board independent agency—District to furnish facilities to Board—Seal.

* * * * *

(c) Subject to the approval of the Commissioners of the District of Columbia, the Board is authorized to adopt and use a seal. (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 6; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87–389, § 1(7).)

AMENDMENT

1961—Section 1(7), act Oct. 4, 1961, amended the section by adding subsection (c) thereto.

§ 1–1107. Registration—Conditions for registration—Registration affidavit—Registration period—Appeal.

(a) A person shall be entitled to vote in an election in the District of Columbia only if he is a qualified elector and, except as provided in subsection (e) of this section, he registers in the District during the year in which such election is to be held.

(b) No person shall be registered unless—

(1) he is a qualified elector;

(2) he executes a registration affidavit by signature or mark (unless prevented by physical disability) on the form prescribed by the Board pursuant to subsection (c) showing that he meets each of the requirements specified in section 1–1102(2) for a qualified elector or qualifies under procedures established by the Board under paragraph (6) of subsection (a) of section 1–1105, and, if he desires to vote in a party election, such form shall show his political party affiliation.

(c) In administering the provisions of subsection (b) (2), the Board shall prepare and use a registration affidavit form in which each request for information is readily understandable and can be satisfied by a concise answer or mark. The Board may request additional information required to determine whether the registrant meets the requirements imposed by or referred to in subsection (b).

(d) The registry shall be open from January 1 until forty-five days before the first Tuesday following the first Monday in November during each presidential election year except the forty-five day period which ends on the first Tuesday in May, and except as provided by the Board in the case of a special election. The Board may close the registry on Saturdays, Sundays and holidays. While the registry is open, any person may apply for registration or change his registration.

(e) If a person is not permitted to register, such person, or any qualified candidate, may appeal to the Board, but not later than three days after the registry is closed for the next election. The Board shall decide within five days after the appeal is perfected whether the challenged elector is entitled to register. If the appeal is denied, the appellant may, within three days after such denial, appeal to the municipal court for the District of Columbia. The decision of such court shall be final and not appealable. If the appeal is upheld by either the Board or the court, the challenged elector shall be allowed to register immediately. If the appeal is pending on election day, the challenged elector may cast a ballot marked "challenged", as provided in section 1–1109 (d). (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 7; Oct. 4, 1961, 75 Stat. 817, 818, Pub. L. 87–389, § 1(8, 9, 10, 11).)

AMENDMENTS

1961—Section 1(8), act Oct. 4, 1961, amended subsection (a) to read as above set out. The original wording of subsection (a) is set out in the main volume of the Code.

Section 1(9) of the same act, amended pars. (2) and (3) of subsection (b) to read as above set out. The original wording of former pars. (2) and (3) are set out in the main volume of the Code.

Section 1(10) of the same act, amended subsection (c) by striking "(b) (3)" and inserting in lieu thereof "(b) (2)".

Section 1(11) of the same act amended the first sentence of subsection (d) to read as above set out. The wording of the sentence prior to amendment is set out in the original Code.

§ 1–1108. Candidates for office—Form and date for filing petitions—Number of signatures required—Arrangement of ballot—Nominations for presidential electors—Names of candidates for President and Vice President to appear on ballot under party designation—Form of ballot—Candidates for electors not to appear on ballot—Nominations by nonqualifying political parties—Qualifications of electors.

(a) Candidates for office participating in an election of the officials referred to in clauses (1), (2), and (3) of section 1–1101 and of officials designated pursuant to clause (4) of such section shall be the persons registered under section 1–1107 who have been nominated for such office by a petition—

(1) prepared and presented to the Board in accordance with rules prescribed by the Board, but not later than thirty days before the date of the election; and

(2) signed by not less than one hundred voters, registered under section 1–1107, and of the same political party as the nominee.

(b) No such person shall hold elected office pursuant to this chapter unless he has been a bona fide resident of the District of Columbia continuously since the beginning of the three-year period ending on the date of the next election, and is a qualified elector registered under section 1–1107.

(c) The Board shall arrange the ballot of each political party so as to enable the voters of such party—

(1) to vote for the candidates duly qualified and nominated for election by such party under this chapter; and

(2) to answer in the affirmative or negative such questions relating to the conduct of the affairs of such party as the duly authorized local committee of such party may file with the Board in writing: *Provided, however,* That the questions shall be so filed not later than thirty days before the date of the election.

(d) Each political party who has had its candidate elected as President of the United States after January 1, 1950, shall be entitled to nominate candidates for presidential electors. The executive committee of the organization recognized by the national committee of each such party as the official organization of that party in the District of Columbia shall nominate by appropriate means the presidential electors for that party. Nominations shall be made by message to the Board of Elections on or before September 1 next preceding a presidential election.

(e) The names of the candidates of each political party for President and Vice President shall be placed on the ballot under the title and device, if any, of that party as designated by the duly authorized committee of the organization recognized by the national committee of that party as the official organization of that party in the District. The form of the ballot shall be determined by that Board. The position on the ballot of names of candidates for President and Vice President shall be determined by lot. The names of persons nominated as candidates for electors of President and Vice President shall not appear on the ballot.

(f) A political party which does not qualify under subsection (d) of this section may have the names of its candidates for President and Vice President of the United States printed on the general election ballot provided a petition nominating the appropriate number of candidates for presidential electors signed by at least 5 per centum of registered qualified electors of the District of Columbia, as of July 1 of the year in which the election is to be held is presented to the Board on or before August 15 preceding the date of the presidential election.

(g) No person may be elected to the office of elector of President and Vice President pursuant to this chapter unless (1) he is a registered voter in the District and (2) he has been a bona fide resident of the District for a period of three years immediately preceding the date of the presidential election. Each person elected as elector of President and Vice President shall, in the presence of the Board, take an oath or solemnly affirm that he will vote for the candidates of the party he has been nominated to represent, and it shall be his duty to vote in such manner in the electoral college. (Aug. 12, 1955, 69 Stat. 701, ch. 682, § 8; Oct. 4, 1961, 75 Stat. 818, 819, Pub. L. 87–389, § 1 (12, 13).)

AMENDMENT

1961—Section 1(12), act Oct. 4, 1961, amended the portion of subsection (a) which precedes par. (1) to read as above set out.

Section 1(13) of the same act, further amended the section by adding subsections (d), (e), (f) and (g) thereto.

§ 1–1109. Method of voting—Place—Watchers—Challenging of votes—Appeal from challenged ballots—Handicapped and absent voters—Voting in party elections.

(a) Voting in all elections shall be secret.

(b) The vote of a person who is registered as a resident of the District shall be valid only if cast in the voting precinct where the residence shown on his registration is located. The Board shall by regulation permit voting for electors of President and Vice President by any registered elector who is absent from the District or who, because of his physical condition, is unable to vote in person at the polling place in his voting precinct on election day.

(c) * * *

(d) * * *

(e) If a person has been permitted to vote only by challenged ballot, such person, or any qualified candidate, may appeal to the Board within three days after election day. The Board shall decide within seven days after the appeal is perfected whether the voter was qualified to vote. If the appeal is denied, the appellant may within three days of such denial appeal to the municipal court for the District of Columbia. The decision of such court shall be final and not appealable. If the Board decides that the voter was qualified to vote, the word "challenged" shall be stricken from the

voter's ballot and the ballot shall be treated as if it had not been challenged.

(f) * * *

(g) No person shall vote more than once in any election, nor shall any person vote in an election held by a political party other than that of which he has declared himself a member.

(h) * * *

(Aug. 12, 1955, 69 Stat. 702, ch. 862, § 9; Oct. 4, 1961, 75 Stat. 819, Pub. L. 87–389, § 1(14, 15, 16, 17).)

CHANGE OF NAME

Act Oct. 23, 1962, 76 Stat. 1172, Pub. L. 87–883, section 6, eff. Jan. 1, 1963, changed the name of the Municipal Court of Appeals for the District of Columbia to "District of Columbia Court of Appeals."

AMENDMENTS

1961—Section 1(14), act Oct. 4, 1961, struck out the second sentence in subsection (a). The struck sentence read as follows: "Voting may be by paper ballot or voting machine."

Section 1(15) of the same act, amended subsection (b) by striking the word "ballot" and inserting in lieu thereof the word "vote" in the first sentence and by inserting at the end thereof the new sentence as above set out.

Section 1(16) of the same act amended subsection (e) by changing "municipal court of the District" to read "municipal court for the District".

Section 1(17) of the same act, amended subsection (g) to read as above set out. The original wording of subsection (g) is set out in the main volume of the Code.

§ 1–1110. Dates for holding elections—Voting Hours—Method of deciding tie votes—Naming successor to official who dies, resigns, or is unable to serve—Votes cast for President and Vice President to be counted as votes for presidential electors.

(a)(1) The elections of the officials referred to in clauses (1), (2), and (3) of section 1–1101 and of officials designated pursuant to clause (4) of such section shall be held on the first Tuesday in May of each presidential election year. Any such election shall be conducted by the Board in conformity with the provisions of this chapter. Polls shall be open from 8 o'clock antemeridian to 8 o'clock postmeridian on election days.

(2) The electors of President and Vice President of the United States shall be elected on the Tuesday next after the first Monday in November in every fourth year succeeding every election of a President and Vice President of the United States. Polls shall be open from 8 o'clock antemeridian to 8 o'clock postmeridian on election day. Each vote cast for a candidate for President or Vice President whose name appears on the general election ballot shall be counted as a vote cast for the candidates for presidential electors of the party supporting such presidential and vice presidential candidate. Candidates receiving the highest number of votes in such election shall be declared the winners, except that in the case of a tie it shall be resolved in the same manner as is provided in subsection (c) of this section.

(b) Candidates receiving the highest number of votes in such elections shall be declared the winners.

(c) In the case of a tie, the candidates receiving the tie vote shall cast lots before the Board, at 12 o'clock noon on a date to be set by the Board, but not sooner than ten days following the election, and the one to whom the lot shall fall shall be declared the winner. If any candidate or candidates, receiving a tie vote, fail to appear before 12 o'clock noon on said day, the Board shall cast lots for him or them. For the purpose of casting lots any candidate may appear in person, or by proxy appointed in writing.

(d) In the event that any official elected pursuant to this chapter dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this chapter to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of such term shall be chosen pursuant to the rules of the duly authorized party committee: *Provided,* That such successor shall have the qualifications required by this Act for such office. (Aug. 12, 1955, 69 Stat. 702, ch. 862, § 10; Oct. 4, 1961, 75 Stat. 819, Pub. L. 87–389, § 1(18, 19, 20).)

AMENDMENTS

1961—Section 1(18), act Oct. 4, 1961, amended subsection (a) by inserting the number (1) immediately after (a) and by the matter set out as par. (2) in said subsection.

Section 1(19) of the same act amended subsection (b) by changing "said election" to read "such elections."

Section 1(20) of the same act amended subsection (d) by striking the word "dies" and inserting in lieu thereof "dies, resigns, or becomes unable to serve" and by striking the words "local committee" at the end of the subsection and inserting in lieu thereof "party committee: *Provided,* That such successor shall have the qualifications required by this chapter for such office."

CROSS REFERENCE

Sale of alcoholic beverages on election days, see § 25–107.

§ 1–1113. Appropriations—Maximum expenditures by candidate—Maximum contributions receivable by committee—Maximum contributions to campaign—Statement of election expenses.

(a) There are hereby authorized to be appropriated, out of any money in the Treasury to the credit of the District of Columbia not otherwise appropriated, such amounts as may be necessary to carry out the purposes of this chapter.

(b) Subject to the penalties provided in this chapter, a candidate for elector of President and Vice President, national committeeman, national committeewoman, delegate, or alternate, in his campaign for election, shall not make expenditures in excess of $2,500.

(c) No independent committee or party committee shall receive contributions aggregating more than $100,000, or make expenditures aggregating more than $100,000 for any campaign covered by this chapter.

(d) No person shall, directly or indirectly, make contributions in an aggregate amount in excess of $5,000 in connection with any campaign for election of any elector, national committeeman, national committeewoman, delegate, or alternate.

(e) Every candidate and independent committee or party committee shall, within ten days after an election, file with the Board of Elections an itemized statement, subscribed and sworn to by the candidate or committee treasurer, as the case may be, setting forth all moneys received and expended in connection with said election, the names of persons from whom received and to whom paid, and the purpose for which it was expended. Such statement shall set forth any unpaid debts and obligations incurred

by the candidate or independent committee or party committee with regard to such election, and specify the balance, if any, of such election funds remaining in his or their hands. (Aug. 12, 1955, 69 Stat. 704, ch. 862, § 13; Oct. 14, 1961, 75 Stat. 819, Pub. L. 87–389, § 1(21, 22, 23).)

AMENDMENTS

1961—Section 1(21), act Oct. 4, 1961, amended subsection (b) by inserting after the words "a candidate for" the words, "elector of President and Vice President,".

Section 1(22) of the same act amended subsection (d) by striking "any national committeeman" and inserting in lieu thereof "any elector, national committeeman".

Section 1(23) of the same act, amended subsection (e) by striking from the first sentence the words "the election" and inserting in lieu thereof "an election".

§ 1–1114. False registration, fraud, and other corrupt practices in elections—Penalties.

Any person who shall register, or attempt to register, under the provisions of this chapter and make any false representations as to his place of residence or his voting privilege in any other part of the United States, or be guilty of bribery or intimidation of any voter at the elections herein provided for, or, being registered, shall vote or attempt to vote more than once in any election so held, or shall purloin or secrete any of the votes cast in such elections, or attempt to vote in an election held by a political party other than that to which he has declared himself to be affiliated, or, if employed in the counting of votes in any election held pursuant to this chapter knowingly, make a false report in regard thereto, and every candidate, person, or official of any political committee who shall knowingly make any expenditure or contribution in violation of this chapter, shall upon conviction thereof be fined not more than $500 or be imprisoned not more than ninety days, or both. The provisions of this section shall be supplemental to and not in derogation of any penalties under other laws of the District of Columbia. (Aug. 12, 1955, 69 Stat. 704, ch. 862, § 14; Oct. 4, 1961, 75 Stat. 820, Pub. L. 87–389, § 1(24).)

AMENDMENT

1961—Section 1(24), act Oct. 4, 1961, amended the section by striking from the first sentence "if employed in the counting of votes in such elections" and inserting in lieu thereof "if employed in the counting of votes in any election held pursuant to this chapter knowingly" and by inserting the word "knowingly" before the words "make any expenditure".

Chapter 14.—NATIONAL CAPITAL REGION TRANSPORTATION

SUBCHAPTER II.—COMPACT FOR MASS TRANSPORTATION

SUBCHAPTER I.—NATIONAL CAPITAL TRANSPORTATION PROGRAM

§ 1–1407. Functions, duties, and powers.

(a) * * *

* * * * *

(11) Repealed October 4, 1961, 75 Stat. 787, Pub. L. 87–367, § 103(4).

SAVINGS PROVISIONS

Section 104 of act Oct. 4, 1961, Pub. L. 87–367, provided:

"(a) The changes in existing law made by section * * * 103 of this title [Repealing subsection (a)(11)] shall not affect any position existing immediately prior to the effective date of such changes in existing law, the compensation attached to such position, and any incumbent thereof, his appointment thereto, and his entitlement to receive the compensation attached thereto, until appropriate action is taken in accordance with this title.

"(b) Positions in grades 16, 17, or 18, as the case may be, of the General Schedule of the Classification Act of 1949, as amended, immediately prior to the effective date of this section [Oct. 4, 1961], shall remain, on and after such effective date, in their respective grades, until appropriate action is taken under section 505 of the Classification Act of 1949 as in effect on and after such effective date."

SUBCHAPTER II.—COMPACT FOR MASS TRANSPORTATION

§ 1–1410. Consent of Congress given for Virginia, Maryland and District of Columbia to enter into compact for regulation of mass transportation in Washington metropolitan area.

NOTES TO DECISIONS

1. Authority of Commission

Washington Metropolitan Area Transit Commission, to which carrier applied for certificate while making simultaneous motion to dismiss on ground that its operation was exempt from regulation, could not, upon determining that operation was not exempt, grant motion and thus compel carrier to pursue application, since carrier might not wish to seek regulated operation. *Montgomery Charter Service Inc.* v. *The Washington Metropolitan Area Transit Commission et al.* (1962, 302 F. 2d 906, 112 U.S. App. D.C. 321).

Washington Metropolitan Area Transit Commission could not order carrier, which was applying for certificate, to cease unauthorized operations, absent evidence in record that carrier was engaged in such operations, although record contained reference to claimed admission by carrier's president and counsel. *Id.*

§ 1–1410a. Consent of Congress given to make certain amendments to mass transportation compact.

The consent of Congress is hereby given to the State of Maryland and the Commonwealth of Virginia to effectuate the foregoing [1] amendments to the compact, and the Commissioners of the District of Columbia are authorized and directed to effectuate said amendments on behalf of the United States for the District of Columbia. (Oct. 9, 1962, 76 Stat. 765, Pub. L. 87–767, § 1.)

CONGRESSIONAL RESERVATION

Section 3, act of Oct. 9, 1962, Pub. L. 87–767, provides as follows: "The right of Congress to alter, amend, or repeal this Act is hereby expressly reserved."

PREAMBLE TO ACT OCT. 9, 1962, PUB. L. 87–767.

Whereas the State of Maryland and the Commonwealth of Virginia have entered into a compact, known as the Washington Metropolitan Area Transit Regulation Compact, hereinafter called compact, creating the Washington Metropolitan Area Transit Commission, hereinafter called Commission; and

Whereas Congress, by Public Law 86–794 (74 Stat. 1031) [§ 1–1410], consented to the entry into the compact by the State of Maryland and the Commonwealth of Virginia, and authorized and directed the Board of Commissioners of the District of Columbia to enter into and execute the compact on behalf of the United States for the District of Columbia; and

[1] The amendments are set out as a note to this section.

Whereas the Commission has recommended specific amendments to the compact, to wit:

(1) To include within the Washington metropolitan area transit district the Dulles International Airport and all cities which lie within the metropolitan district;

(2) To exempt from the Commission's jurisdiction transportation performed by a carrier whose only transportation is between points outside the metropolitan district and points inside the metropolitan district;

(3) To clarify the Commission's jurisdiction over interstate taxicab operations;

(4) To provide that the annual reports of the Commission be submitted on a fiscal year basis; and

Whereas the State of Maryland and the Commonwealth of Virginia have by legislation (chapter 114, Acts of Maryland General Assembly, 1962; and chapter 67, Acts of Virginia General Assembly, 1962) adopted identical amendments to the compact, to become effective upon consent of Congress, by which article I, and sections 1 and 24 of article XII, respectively, of the compact are amended to read as follows: *Amendments To Compact Authorized By act Oct. 9, 1962.*

ARTICLE I

There is hereby created the Washington Metropolitan Area Transit District, hereinafter referred to as Metropolitan District, which shall embrace the District of Columbia, the cities of Alexandria and Falls Church, the counties of Arlington and Fairfax, and political subdivisions of the State of Virginia located within those counties and that portion of Loudoun County, Virginia, occupied by the Dulles International Airport and the counties of Montgomery and Prince Georges, in the State of Maryland and political subdivisions of the State of Maryland located within said counties, and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the other boundaries of the combined area of said counties, cities and airport.

ARTICLE XII

Transportation Covered

1. (a) This Act shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District and to the persons engaged in rendering or performing such transportation service, except—

(1) transportation by water;

(2) transportation by the Federal Government, the signatories hereto, or any political subdivision thereof;

(3) transportation by motor vehicles employed solely in transporting school children and teachers to or from public or private schools;

(4) transportation performed in the course of an operation over a regular route, between a point in the Metropolitan District and a point outside the Metropolitan District, including transportation between points on such regular route within the Metropolitan District as to interstate and foreign commerce, if authorized by certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission, and any carrier whose only transportation within the Metropolitan District is within this exemption shall not be deemed to be a carrier subject to the Compact; provided, however, if the primary function of a carrier's entire operations is the furnishing of mass transportation service within the Washington Metropolitan Area Transit District, then such operations in the Metropolitan District shall be subject to the jurisdiction of the Commission;

(5) transportation performed by a common carrier by railroad subject to Part I of the Interstate Commerce Act, as amended.

(b) The provisions of this Title II shall not apply to transportation as specified in this section solely within the Commonwealth of Virginia and to the activities of persons engaged in such transportation, nor shall any provision of this Title II be construed to infringe the exercise of any power or the discharge of any duties conferred or imposed upon the State Corporation Commission of the Commonwealth of Virginia by the Virginia Constitution.

(c) Notwithstanding the provisions of paragraph (a) of this section, this Act shall apply to taxicabs and other vehicles used in performing a bona fide taxicab service having a seating capacity of eight passengers or less in addition to the driver thereof with respect only to (i) the rate or charges for transportation from one signatory to another within the confines of the Metropolitan District, and (ii) requirements for minimum insurance coverage.

Annual Report of the Commisison

24. The Commission shall make an annual report for each fiscal year ending June thirtieth, to the Governor of Virginia and the Governor of Maryland, and to the Board of Commissioners of the District of Columbia as soon as practicable after June thirtieth, but no later than the 1st day of January of each year, which shall contain, in addition to a report of the work performed under this Act, such other information and recommendations concerning passenger transportation within the Metropolitan District, as the Commission deems advisable.

§ 1–1414. Repealed. Oct. 5, 1962, 76 Stat. 765. Pub. L. 87–767, § 2.

Section act Sept. 15, 1960, 74 Stat. 1051, Pub. L. 86–794, § 5, provided that the consent of Congress to the mass transportation compact was conditioned on section 1(a)(4) of article XII of the compact being amended, in the respects therein specified, within three years from Sept. 15, 1960. See amendments to compact set out as a note to § 1–1410a.

REORGANIZATION PLAN AND ORDERS FOR DISTRICT OF COLUMBIA

REORGANIZATION PLAN NO. 5 OF 1952

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 1, 1952, pursuant to the provisions of the Reorganization Act of 1949, approved June 29, 1949. [Reorganization Act of 1949, 63 Stat. 203 as amended, is set forth in sections 133z to 133z–15 of Title 5, United States Code.]

GOVERNMENT OF THE DISTRICT OF COLUMBIA

* * * * *

(b) The Board of Commissioners shall not provide for the performance by any member of the Board of Commissioners, or by any other officer, employee, or agency of: (1) any function vested in the said Board by Act of Congress with respect to making and adopting regulations except those pertaining to the administration of or procedure before any agency of the Government of the District of Columbia; (2) the function of approving any contract in excess of $50,000; (3) the function of appointing or removing the head of any agency responsible directly to the Board of Commissioners; or (4) the function of approving the budget for the District of Columbia.

(Subsec. (b) amended by Act Oct. 11, 1962, 76 Stat. 910, Pub. L. 87–802, § 1, by striking $25,000 and inserting in lieu $50,000.)

REORGANIZATION ORDER NO. 8.—MANAGEMENT OFFICE

Reorg. Ord. No. 8, C.O. 302,970.a, Sept. 25, 1952, as amended Aug. 24, 1961, ordered that:

1. * * *

* * * * *

(c) The Management Office is responsible for planning, developing, directing, and coordinating a program for the effective use of automatic data processing systems and equipment throughout the entire District of Columbia Government.

* * * * *

REORGANIZATION ORDER NO. 19.—INTERNAL AUDIT OFFICE

Reorg. Ord. No. 19, C.O. 302,970D, C.O. 302,853/14, Nov. 10, 1952, as amended Aug. 28, 1958, and June 5, 1962, ordered that:

* * * * *

PART IV

Functions.—The responsibilities of the Internal Audit shall be to:

1–6. * * *

7. Acting for the Director of General Administration, coordinates with District departments concerned, all audit reports submitted by the General Accounting Office in their review of District Government activities.

REORGANIZATION ORDER NO. 28.—DEPARTMENT OF SANITARY ENGINEERING

Reorg. Ord. No. 28, C.O. 302,970.H, C.O. 302,853/14, Apr. 3, 1953, as amended Aug. 4, 1953, Jan. 31, 1956, Jan. 17, 1961, and Oct. 17, 1961, ordered that:

* * * * *

PART II

Purpose.—* * *

* * * * *

Operates and maintains special-use buildings and facilities under the exclusive jurisdiction of the Department, including the maintenance of adjacent grounds, and the providing of necessary protective, elevator, custodial, and other related services.

* * * * *

REORGANIZATION ORDER NO. 29.—PROCUREMENT OFFICE

Order No. 2070, dated Oct. 30, 1962, makes the following amendments:

1. The figures $25,000 are changed to $50,000 in Part IV(b)(1), Part V(b) and Part VI(c)(1).

2. The figures $5,000 are changed to $10,000 in Part IV(b)(2) and Part VI(c)(2).

REORGANIZATION ORDER NO. 31.—POLICE AND FIREMEN'S RETIREMENT AND RELIEF BOARD

Reorg. Ord. No. 31, C.O. 274,993, C.O. 302,853/14, C.O. 302,970.C, P.D. 01.9542, Apr. 30, 1953, as amended July 20, 1954, June 28, 1955, Sept. 5, 1957, Nov. 22, 1960, and June 21, 1962, ordered that:

* * * * *

PART IX

* * * * *

In making such findings of fact the Board shall consider the written opinion submitted to it by the Board of Police and Fire Surgeons concerning the physical or mental condition, or both, of the member for whom involuntary separation or retirement is sought, together with all records and testimony of the Board of Police and Fire Surgeons relating to such member, and such records and testimony of any other person bearing on the matter before the Police and Firemen's Retirement and Relief Board.

The authority set forth in subsection "(i)" of the Policemen and Firemen's Retirement and Disability Act (P.L. 85–157; sec. 4–529, D.C. Code, 1961 ed.) to express a judgment as to the disability of a member from performing further duty in his department is hereby delegated exclusively to the Police and Firemen's Retirement and Relief Board.

REORGANIZATION ORDER NO. 34.—DEPARTMENT OF CORRECTIONS

Reorg. Ord. No. 34, C.O. 302,089, C.O. 302,853/14, May 28, 1953, as amended Dec. 10, 1953, Aug. 12, 1954, May 17, 1956, July 14, 1960, and May 4, 1961, ordered that:

* * * * *

PART IV

* * * * *

K. *Health Division.*—Provides for the operation of a public health program for the inmates confined in the institutions, including provision for their medical, dental, and nursing care. Insures that the medical, dental, and nursing programs of the Department of Corrections are in conformance with the overall public health programs of the Department of Public Health, as far as practicable in a prison system.

* * * * *

REORGANIZATION ORDER NO. 38.—FIRE DEPARTMENT

Reorg. Ord. No. 38, L. S. 3089–B, June 18, 1953, as amended Aug. 27, 1957, and Oct. 17, 1961, ordered that:

PART I

Fire Department.—A. * * *

* * * * *

4. Operation and maintenance of special-use buildings and facilities under the exclusive jurisdiction of the Department, including the maintenance of adjacent grounds, and the providing of necessary protective, elevator, custodial and other related services, except Fire Alarm Headquarters which is operated and maintained by the Department of Buildings and Grounds pursuant to Reorganization Order No. 42, as amended.

* * * * *

REORGANIZATION ORDER NO. 42.—DEPARTMENT OF BUILDINGS AND GROUNDS

Reorg. Ord. No. 42, L. S. 4159–B, June 23, 1953, as amended Aug. 11, 1954, Nov. 23, 1954, Jan. 31, 1956, Apr. 24, 1956, Feb. 7, 1961, and Oct. 17, 1961, ordered that:

* * * * *

PART IV

* * * * *

F. *Operation and Maintenance Division:*

1. Operates and maintains the following District Government buildings and facilities, including the maintenance of adjacent grounds under the jurisdiction of the District of Columbia Government, and the providing of necessary protective, elevator, custodial, and other related services:

Name of building	*Multiple-use*	*Special-use*
1. Barret School		X
2. Comfort Station No. 2		X
3. Comfort Station No. 3		X
4. Corcoran School		X
5. D.C. Morgue		X
6. District Building	X	
7. East Administration Building	X	
8. Fire Alarm Headquarters		X
9. Force School Building	X	
10. Ford Building	X	
11. Juvenile Court		X
12. May Building	X	
13. Municipal Court (Civil Division)		X
14. Municipal Court (Criminal Div.)		X
15. National Guard Armory [1]	X	
16. New Cent. Library (499 Pennsylvania Avenue)	X	
17. Recorder of Deeds		X
18. Southwest Health Center		X
19. Warehouse (22 Adams Place, NE.)	[2] X	
20. 450 Main Avenue, SW.		X

[1] Limited to the performance of maintenance and repair activities pursuant to the provisions of the act approved June 4, 1948, 62 Stat. 339; section 2–1703, D.C. Code, 1951.

[2] Operates and maintains the Warehouse, Shops, and Records Center facilities at 22 Adams Place, NE., on a reimburseable basis for such part of said facilities for which funds are not allotted to the Department of Buildings and grounds.

* * * * *

REORGANIZATION ORDER NO. 43.—DEPARTMENT OF INSURANCE

Reorg. Ord. No. 43, G. F. No. 36–000, June 23, 1953, as amended Aug. 28, 1962, ordered that:

* * * * *

PART VIII

There is delegated to the Superintendent of Insurance the function, now vested in the Board of Commissioners by the Act of May 17, 1932 (47 Stat. 158, ch. 189; sec. 35–204, D.C. Code, 1961 ed.), of granting or denying to insurance companies permission to remove from the District of Columbia the principal office, books, records, and files (except as set forth in paragraph 2 of this Part) of such companies.

2. The function delegated by paragraph 1 of this Part does not include authority to approve or permit the removal from the District of the principal office or stock records of any domestic life insurance company organized or reincorporated under the provisions of the 1934 Life Insurance Act (June 19, 1934, 48 Stat. 1143, ch. 672).

3. The function delegated by this Part may not be redelegated to other officials or employees of the Department of Insurance, and is subject to withdrawal or modification at any time.

REORGANIZATION ORDER NO. 46.—METROPOLITAN POLICE DEPARTMENT

Reorg. Ord. No. 46, L.S. 4236–B, June 26, 1953, as amended May 17, 1955, Oct. 20, 1955, Jan. 31, 1956, Oct. 17, 1961, Feb. 6, 1962, and Apr. 6, 1962, ordered that:

* * * * *

PART III

Organization.— * * *

12. Internal Investigation Unit.

PART IV

Functions.—A. *Office of the Chief of Police.*

1–5. * * *

6. Acts as the agent of the Director, Department of Motor Vehicles, for the service of notices suspending or revoking operators' permits and privileges and stamping on operators' permits issued by the District notations that such notices have been served.

H. *Chief Clerk's Section:*

1–3. * * *

4. Prepares all statistical reports requested by the Federal Bureau of Investigation, National Safety Council, and other agencies.

* * * * *

J. *Special Services Section:*

1–5. * * *

6. Deleted by order dated Apr. 6, 1962.

K. *Uniforms and Equipment Section:*

* * * * *

2. Operates and maintains special-use buildings and facilities under the exclusive jurisdiction of the Department, including the maintenance of adjacent grounds, and the providing of necessary protective, elevator, custodial and other related services.

* * * * *

L. *Internal Investigations Unit:*

As directed by the Chief of Police, advises, consults with, and provides investigative assistance to other units of the department on serious or complex personnel problems; investigates cases involving alleged violations of the law by members of the department, whether arising from reports made by officials and members of the department or from the complaints of other persons; investigates, or reviews investigations of cases involving infractions of the rules of discipline or other matters; makes critical examinations of all areas of police activities wherein may lie a threat to the integrity or morale of the department.

REORGANIZATION ORDER NO. 47.—BOARD OF POLICE AND FIRE SURGEONS

Reorg. Ord. No. 47, L.S. 4237–B, June 26, 1953, as amended Oct. 16, 1958, and June 21, 1962, ordered that:

PART I

Board of Police and Fire Surgeons.—A. The existing Board of Police and Fire Surgeons including the Office of the Chairman thereof, is hereby reconstituted, with the same name and with the same functions now performed, including the powers, duties, and authorities of all members, officers, and employees assigned thereto: *Provided,* That in all cases involving retirement or involuntary separation from service pursuant to the Policemen and Firemen's Retirement and Disability Act (P.L. 85–157; sec. 4–526 through 4–529, D.C. Code, 1961 edition (subsection (f), Retirement for Disability Not Incurred in Line of Duty; subsection (g), Retirement for Disability Incurred While Performing Duty; subsection (h), Optional Retirement; and subsection (i), Involuntary Separation)), the duty of the Board of Police and Fire Surgeons shall be limited to that of submitting in writing to the Police and Firemen's Retirement and Relief Board its opinion concerning the physical or mental condition, or both, of the member for whom involuntary separation or retirement is sought, but any member of the Board of Police and Fire Surgeons, and any other person, whose report of the facts or examination of the member formed any part of the basis of such opinion of the Board of Police and Fire Surgeons shall, when so requested by any member of the Police and Firemen's Retirement and Relief Board, testify thereon before the Retirement and Relief Board with respect thereto and produce before such Board all the

records and evidence before, or in the files of, the Board of Police and Fire Surgeons or any such other person concerning the member whose retirement or separation is sought, and such submission and all such records and evidence of the Board of Police and Fire Surgeons and of any such other person shall be considered by the Police and Firemen's Retirement and Relief Board: *Provided further,* That under the authority vested in the Commissioners by Reorganization Plan No. 5 of 1952, as confirmed by the second sentence of subsection "(q)" of the Policemen and Firemen's Retirement and Disability Act, the authority lodged in the Board of Police and Fire Surgeons by subsection "(i)" of said Act and by virtue of Reorganization Order No. 47 prior to this amendment, to express a judgment as to the disability of a member from performing further duty in his department, is hereby withdrawn from said Board of Police and Fire Surgeons, and such authority is hereby delegated exclusively to the Police and Firemen's Retirement and Relief Board, established pursuant to Reorganization Order No. 31, as amended.

* * * * *

REORGANIZATION ORDER NO. 49.—OFFICE OF CIVIL DEFENSE

Reorg. Ord. No. 49, G. F. No. 4–010, June 26, 1953, as amended November 10, 1953, Aug. 26, 1958, and Aug. 7, 1962, ordered that:

* * * * *

PART III

* * * * *

F. The Director of Civil Defense is hereby designated Emergency Planning Director for D.C.

REORGANIZATION ORDER NO. 55.—DEPARTMENT OF LICENSES AND INSPECTIONS

Reorg. Ord. No. 55, L. S. 4263–B, June 30, 1953, as amended Aug. 13, 1953, Dec. 17, 1953, June 30, 1954, Oct. 26, 1954, Aug. 11, 1955, Jan. 31, 1956, July 10, 1956, Oct. 2, 1956, Oct. 16, 1956, June 13, 1957, Nov. 27, 1957, July 22, 1958, June 1, 1960, Feb. 21, 1961, and Nov. 7, 1961, ordered that:

* * * * *

PART III

* * * * *

D. *Inspection Division.*

* * * * *

9. Conducts inspections necessary to provide adequate safeguards to the public safety and health; evaluates the effectiveness of the existing regulations pertaining to minimizing the contaminants polluting the air and proposes changes in regulations deemed necessary to achieve the overall air pollution control objectives.

* * * * *

REORGANIZATION ORDER NO. 57.—DEPARTMENT OF PUBLIC HEALTH

Reorg. Ord. No. 57, L. S. 4262–B, June 30, 1953, as amended June 30, 1954, Nov. 30, 1954, Jan. 31, 1956, Aug. 23, 1956, Dec. 13, 1956, Nov. 12, 1957, Dec. 23, 1958, Nov. 10, 1960, Feb. 21, 1961, Nov. 2, 1961, and Nov. 7, 1961, ordered that:

* * * * *

PART III

* * * * *

A. *Office of the Director.*—

1. Develops and proposes major programs, policies, and regulations on health, sanitation, air pollution, disease control, hospital and clinic care, and vital statistics matters to the Board of Commissioners.

* * * * *

14. Collaborates with the U.S. Public Health Service, D.C. departments, and other agencies in the Washington metropolitan area in performing research and in surveying and monitoring the air with the objective of developing and coordinating a long-range program designed to prevent such contamination of the air as endangers the health of persons, animals and plants. Coordinates all phases of air pollution within D.C. and assists in performing a similar role for the entire area. Reviews and analyzes the effectiveness of air pollution inspections and controls on motor vehicles, buildings, and open fires administered by other departments and proposes actions consistent with the program objectives. Prepares periodic reports on the effectiveness of air pollution controls toward attaining the established objectives. Keeps public informed on air pollution control matters.

15. Plans, organizes and directs the following public health education activities:

(a) Analyzes public health education needs in relation to the problems and resources available in the community selecting the most useful activity in each field of activity within the Department.

(b) Determines the educational approaches and application to current community needs, utilizing all available visual and audio methods.

(c) Provides leadership in the community for the educational activities of various health agencies and facilities in the interest of public health to eliminate overlapping and duplication and to stimulate activity.

(d) Provides guidance for in-service training of professional health workers in educational techniques of community health education.

(e) Demonstrates health education programs through pilot projects on special problems.

(f) Collaborates with departments of the District Government in increasing health oriented programs available to the general public (public schools, public welfare, vocational rehabilitation and recreation).

(g) Operates film library for official and community groups. Circulates pamphlets and professional journals within the Department.

(h) Produces are displays, posters and other material for reproduction purposes.

B. *Office of Administration.*—

* * * * *

(c) *Bio-Statistics Division.*—

* * * * *

1. Formulates, plans, and directs a centralized biostatistics and vital statistics program.

2. Collects, correlates, and analyzes morbidity and vital statistical data; prepares reports, charts, graphs, and other visual methods for keeping the Board of Commissioners, the Director of Public Health, constituent bureaus, and the community informed on activities of the Department and its health programs.

3. Conducts statistical studies and assists in research projects of the Department.

4. Maintains records of births and deaths, and issues certified copies of such records.

5. Issues permits for the removal, burial, cremation, disinterment, or reinterment of the bodies of persons deceased in the District of Columbia, or of deceased persons brought into or transported out of the District of Columbia.

* * * * *

H. *Bureau of Environmental Health.*—

1. Inspects licensed dairy farms and cattle thereon, milk plants, milk receiving stations and ice cream plants supplying milk and ice cream for human consumption in the District; examines slaughter houses and animals slaughtered for human consumption in the District; and collects samples of such items as are necessary for laboratory tests.

2. Inspects all types of food distribution establishments, food processing centers and food preparing or serving establishments, including the food proper, equipment and all items used in the distribution, processing, preparation or service of food, and the premises; collects samples and makes cultures for laboratory tests; examines animals for rabies and furnishes technical supervision over the program for the vaccination of dogs for the prevention of rabies.

3. Supervises ways and methods to assure adherence to proper standards of hygiene for occupations, work places, work material, work conditions, and related matters concerning city planning; heating, lighting, ventilation, aerial pollution, noise and public health nuisances related to vacant land, occupations and work places; and

health hazards associated with work material and conditions.

4. Conducts sampling of gaseous contaminants in the air; notifies the public of impending or potential temperature inversion periods; coordinates the air pollution study of damage to plants and prepares for the Director periodic reports encompassing the air pollution activities of all D.C. departments and agencies involved in this program.

5. Enforces from the standpoint of public health responsibilities the hygienic measures to be taken in such areas as the water supply, sewage disposal, collection and disposal of municipal wastes; bathing places, recreational areas and places of public assemblage; interstate carrier sanitation; controls industrial waste pollution of surface waters and water pollution. In connection with cross connections and plumbing defects encountered, where an immediate danger to the public health exists, takes emergency action necessary to prevent further exposure to the public to the health menace and immediately informs Department of Licenses and Inspections of full circumstances in the situation in order that the latter may secure correction of the deficiencies in accordance with applicable laws, codes and regulations.

6. Exercises leadership in public health preventive programs and corrective measures to control disease transmitted by insects, pests, vermin, and rodents in respect to the elimination of breeding places, eradication of the vector, and fumigation of materials and property. Upon request by the Department of Licenses and Inspections, undertakes or supervises proper fumigation or extermination measures in habitable premises.

7. Passes upon construction plans and alterations and performs pre-licensing inspections as required by regulation, except insofar as housing of all types is concerned.

8. Conducts educational classes in the public health aspects of environment, personal hygiene and food handling problems for industrial, environmental, management, and employee groups of the community.

REORGANIZATION ORDER NO. 59.—BOARDS, COMMISSIONS AND COMMITTEE

Reorg. Ord No. 59, L. S. 4266–B, June 30, 1953, as amended July 17, 1953, Sept. 15, 1953, Dec. 10, 1953, June 17, 1954, June 27, 1957, June 24, 1958, July 29, 1958, Aug. 25, 1959, Jan. 26, 1960, Aug. 9, 1960, Mar. 21, 1961, May 25, 1961, Sept. 12, 1961, and Feb. 20, 1962, ordered that:

* * * * *

PART V

* * * * *

C. Qualification requirements shall be determined and officers shall be chosen in accordance with the statutes and regulations applicable to the boards, commissions, and committee having the same or similar names prior to their abolition by the Board of Commissioners on June 30, 1953, except that any person shall be eligible for appointment upon the Board of Podiatry Examiners who is a citizen of the United States and who has been for five years next preceding his appointment in the active and reputable practice of podiatry in the District of Columbia, and except that any person shall be eligible for appointment upon the Board of Dental Examiners who is a citizen of the United States and who has been for five years next preceding his appointment, both a resident of the Washington Metropolitan Area, as defined in the National Capital Planning Act of 1952, as amended, and in the active and reputable practice of dentistry in the District of Columbia, and except that the Commissioners may, in their discretion, appoint the members to the Board of Barber Examiners as they determine is in the best interest of the District Government, either upon the recommendations of interested groups or individuals, or without such recommendations. The Steam and Other Operating Engineers' Board shall be composed of three members, two of whom are practical engineers, neither of whom shall be in the employ of the United States or the District of Columbia, and the Boiler Inspector for the District of Columbia; and three alternates, two of whom shall be practical engineers, neither of whom shall be in the employ of the United States or the District of Columbia, and the Assistant Chief, Smoke and Boiler Section, Department of Licenses and Inspections. The Commission on Licensure To Practice the Healing Art in the District of Columbia shall be composed of the President of the Board of Commissioners of the District of Columbia, the United States Commissioner of Education, the Corporation Counsel of the District of Columbia, the Superintendent of Public Schools of the District of Columbia, and the Director of Public Health of the District of Columbia, each ex officio.

* * * * *

PART XII

Practical Nurses' Examining Board

A. *Establishment.*—Pursuant to authority contained in Section 7 of Public Law 86–708, effective July 29, 1961, there is hereby established, within the Department of Occupations and Professions, a Practical Nurses' Examining Board.

B. *Delegation of functions.*—The Practical Nurses' Examining Board is hereby delegated the technical and professional functions vested in the Commissioners by sections 8, 9, 10, 11, 12, and 14 of Public Law 86–708, and the administrative functions authorized to be performed by such sections are hereby delegated to the Director: *Provided,* That the functions of adopting and prescribing rules and regulations pursuant to the authority contained in section 8 shall remain vested in the Commissioners.

C. *Composition and qualifications.*—The Practical Nurses' Examining Board shall be composed of seven members appointed by the Board of Commissioners. Four such members shall be graduate nurses duly registered in the District of Columbia under provisions of the Act of February 9, 1907, as amended (D.C. Code, 1951 edition, Sec. 2–401 through 2–411), and who shall have had, since graduation, at least five years of experience in the nursing service. Three such members shall be practical nurses. From and after October 26, 1961, all such practical nurse members shall be duly licensed under the provisions of Public Law 86–708. At least two practical nurse members of such Board shall be present at each meeting of the Board.

D. *Terms.*—The initial appointments to the Practical Nurses' Examining Board shall be for the following terms: one graduate nurse and one practical nurse member for one year; one graduate nurse member and one practical nurse member for two years; and two graduate nurse members and one practical nurse member for three years. Thereafter, except in those instances when appointment is made to fill an unexpired term, each member of the Practical Nurses' Examining Board shall be appointed for a term of three years or until her successor has been appointed and qualified. In the event that any vacancy should occur in the membership of the Practical Nurses' Examining Board in any manner other than by the expiration of time, the Board of Commissioners shall fill such vacancy in the usual manner, for the duration of the unexpired term.

E. *Applicability.*—Except where inconsistent with this Part, all other Parts of this Order shall apply to the Practical Nurses' Examining Board.

ORGANIZATION ORDER NO. 105.—DEPARTMENT OF MOTOR VEHICLES

Organization Ord. No. 105, 55–885, May 17, 1955, as amended June 10, 1958, Sept. 9, 1958, May 19, 1959, and Nov. 7, 1961, ordered that:

* * * * *

PART IV

* * * * *

F. *Vehicle Control Division:*

1. Plans, directs, coordinates, administers and evaluates comprehensive procedures, processes and requirements covering the titling and registration of, and issuance of owners' identification tags for motor vehicles and trailers, and, the inspection of such vehicles and trailers for mechanical safety and for the prevention of noise and air pollution.

* * * * *

ORGANIZATION ORDER NO. 107.—HACKERS' BOARD

1. That, effective as prescribed by paragraph 2 of this order, Organization Order No. 107, dated May 17, 1955, as

amended Dec. 18, 1958, Apr. 5, 1960, Sept. 20, 1960, Sept. 18, 1962, Oct. 30, 1962, and Nov. 6, 1962, ordered:

PART I

The Board of Revocation and Review of Hackers' Identification Cards, established by Reorganization Order No. 54, dated June 30, 1953, as amended, shall continue to be responsible to the Board of Commissioners through the Engineer Commissioner, but shall hereafter be known as the Hackers' License Appeal Board, with the short title of Hackers' Board.

PART II

A. *Membership.*—The Hackers' Board shall consist of five (5) members, namely:

(1) An employee in the Permit Control Division, Department of Motor Vehicles, as designated from time to time by the Director, Department of Motor Vehicles, who shall be chairman;

(2) A member of the Citizens' Traffic Board (hereinafter, Traffic Board), assigned and compensated as hereinafter provided;

(3) Two attorneys designated and compensated as hereinafter provided, to be selected and assigned as required by paragraph (2) of subpart C of this Part.

(4) An Assistant Corporation Counsel, as designated from time to time by the Corporation Counsel.

B. *Quorum.*—Three members shall constitute a quorum, one of whom shall be the Assistant Corporation Counsel member and one of whom shall be one of the two attorney members from the bar associations.

C. *Designation, appointment, and assignment:*

(1)(a) The Executive Secretary of the Traffic Board shall keep the Chairman of the Hackers' Board currently advised of the names of the members of the Traffic Board who are willing to serve as members of the Hackers' Board, and the Chairman shall maintain a list of such members.

(b) The Chairman of the Hackers' Board shall assign such Traffic Board members in rotation to sit in specified cases or at specified times.

(2)(a) The President of the Bar Association of the District of Columbia and the President of the Washington Bar Association of the District of Columbia each having submitted to the President, Board of Commissioners, the names of not less than 16 members of his Association who are willing to serve as members of the Hackers' Board and whom he nominates for appointment to said Board, the President of the Board of Commissioners shall, annually, submit to the Board of Commissioners for its consideration said panels of not less than 16 names each. The Board of Commissioners shall consider such panels and shall make a selection either therefrom or otherwise of not more than 16 attorneys as members of the said Hackers' Board who shall serve until their successors are appointed and who shall be subject to removal by the Board of Commissioners. After the said appointees have taken the oath of office, the Secretary, Board of Commissioners, shall furnish to the Chairman of the Hackers' Board a list naming the attorney members appointed to said Board.

(b) The Chairman of the Hackers' Board shall assign such attorney members in rotation to sit in specified cases or at specified times.

D. *Oath and Compensation.*—The members of the Traffic Board and the attorney members appointed on nomination by the bar associations or otherwise shall be intermittent employees of the District of Columbia, shall take the oath of office prescribed for civil employees of the District of Columbia, and shall receive compensation when actually performing services as members of the Hackers' Board.

E. *Conflict of interest:*

(1) The members who are intermittent employees of the District of Columbia shall, upon taking the oath of office, file with the Director, Department of Motor Vehicles, a statement in detail of any and all private interests that such members may have relating to vehicles for hire, including, without limitation, legal or other representation, ownership, management or operation of vehicles for hire or the drivers thereof. Such statements shall be promptly amended or supplemented to reflect any change in such private interests.

(2) Upon the filing of the statement provided for in the preceding subparagraph, the member filing same shall, if such statement reflects all current conditions required to be included therein, be considered to have the written permission of the appropriate authority, as required by the last paragraph on page 10B–5 of the District of Columbia Personnel Manual, to engage in the practice or pursuit of such private interests, provided that he does not participate in the hearing, consideration or determination of any matter involving any interest, direct or indirect, contained in any such statement so filed with the Director, or properly includable in any such statement.

PART III

A. The functions and responsibilities of the Hackers' Board shall be to:

(1) Consider appeals from adverse decisions on applications for licenses submitted in accordance with the requirements of subparagraphs (e) and (j) of paragraph 31 of section 7 of the Act approved July 1, 1902, as amended (§ 47–2331 (e) and (j), D.C. Code, 1961 edition) and affirm such decisions, or approve such applications.

(2) Determine whether a complaint against an individual licensed in accordance with the requirements of subparagraphs (e) or (j) of paragraph 31 of section 7 of such Act approved July 1, 1902, as amended, justifies the suspension or revocation of such license under the authority contained in subparagraph (a) of paragraph 46 of section 7 of such Act (§ 47–2345(a), D.C. Code, 1961 edition), and, if such action be justified, suspend or revoke such license.

(3) Recommend to the Board of Commissioners changes in criteria or standards to be applied in the denial of applications submitted in accordance with the requirements of paragraphs (e) and (j) of section 47–2331 of the D.C. Code, and in the suspension or revocation of such licenses under the authority of section 47–2345(a) of the D.C. Code.

B. The activities of the Board shall be considered investigations or examinations of municipal matters within the meaning of the Act approved July 1, 1902 (32 Stat. 591; § 1–237, D.C. Code, 1961 edition), and the Board shall possess the powers vested in the Commissioners by that Act.

C. The procedures of the Board shall be in accordance with such rules as may be prescribed by the Corporation Counsel, and the said Corporation Counsel is hereby authorized to prescribe, and from time to time amend, rules governing the procedures of the Board, including the establishment of time limitations where not otherwise set forth, and the development of methods of perfecting appeals to the Board.

D. The decisions of the Board pursuant to subpart A shall be final.

PART IV

The Department of Motor Vehicles shall provide the necessary administrative services for the Hackers' Board.

2. That paragraph 1 of this Order shall become effective thirty days from the date on which the Commissioners forward to the Chairman of the Hackers' Board the list of attorneys selected and appointed by them in accordance with Part II.C.(2) of Organization Order No. 107, as amended by said paragraph 1 hereof, except that, for the purpose of designating, or of selecting and qualifying, the individuals who shall become members of such Hackers' Board, Part II of Organization Order No. 107, as so amended, shall become effective immediately. After the expiration of such thirty day period, all matters then pending before the Board of Revocation and Review of Hackers' Identification Cards or on appeal from its actions shall be within the jurisdiction of the Hackers' Board which shall take such action in any such matter as it deems advisable.

[This part was amended Oct. 30, 1962, by order No. 62–2066, by striking out "15 days" and substituting "thirty days".]

ORGANIZATION ORDER NO. 108.—CITIZENS' TRAFFIC BOARD

Organization Ord. No. 108; 55–888, May 17, 1955, as amended Feb. 18, 1959, Sept. 12, 1961, Dec. 12, 1961, and Mar. 27, 1962, ordered that:

* * * * *

PART III

Composition and membership:

1. The Citizens' Traffic Board shall consist of not to exceed 25 members appointed by the Board of Commissioners and subject to removal at the discretion of the Board of Commissioners, except that during the period April 1, 1962, to April 1, 1963, the Citizens' Traffic Board shall consist of not to exceed 27 members: *Provided,* That if, during such period one or more members of such Board is or are separated therefrom by death, resignation or otherwise, such member or members may be replaced so that the membership of the Board shall not, during such period, exceed 26 if one member is so separated and shall not exceed 25 if two or more members are so separated. Members shall hold office for terms of three years, except that of the initial appointments one-third shall serve for one year, one-third for two years, and one-third for three years. Should a vacancy occur through the death, incapacity or resignation of a member, a successor may be appointed to complete the unexpired term and in the same manner as regular appointments. No person shall serve more than two consecutive terms but may be reappointed after a lapse of one year. Appointments scheduled to terminate or begin on Feb. 18, 1962, shall instead terminate or begin on Apr. 1, 1962. April 1 shall subsequently be the regular date of rotation of appointments each year.

2. The Board shall solicit the participation in its activities of those individuals, firms, associations, and other groups considered by the Board qualified and willing to assist in the Board's mission. Invitations to participate in the activities of the Board and the acceptances of such invitations will be made a matter of record by the Board.

* * * * *

PART IV

* * * * *

1. The Board of Commissioners shall designate the Chairman and two Vice Chairmen of the Board.

* * * * *

ORGANIZATION ORDER NO. 109.—ESTABLISHING POSITION OF ASSISTANT ENGINEER COMMISSIONER FOR URBAN RENEWAL AND ESTABLISHING AN OFFICE OF URBAN RENEWAL

Organization Ord. No. 109, 55–996, May 31, 1955, as amended Feb. 13, 1962, ordered:

* * * * *

PART II

A. * * *

B. *Functions.*—* * *

1. * * *

2. * * *

3. * * *

4. * * *

5. * * *

6. Development of a Community Renewal Program which will encompass the long-range needs in the District of Columbia for urban renewal and slum prevention.

PART III

* * * * *

A. *Purpose and functions.*— * * *

1. * * *

2. * * *

3. * * *

4. * * *

5. * * *

6. Development of a Community Renewal Program which will encompass the long-range needs in the District of Columbia for urban renewal and slum prevention.

ORGANIZATION ORDER NO. 110.—COMMISSIONERS' URBAN RENEWAL COUNCIL

Organization Ord. No. 110, 55–997, May 31, 1955, as amended Sept. 4, 1958; Mar. 22, 1960, July 14, 1960, July 6, 1961, and Aug. 31, 1961, ordered that:

* * * * *

PART III

Composition and membership.—1. The Commissioners' Urban Renewal Council shall consist of seven members appointed by the Board of Commissioners. After July 14, 1960, every appointment of a member shall be for a term of three years, and every vacancy shall be filled only for the unexpired portion of the term, but after the expiration of his term each such member shall continue to serve until his successor is appointed and has qualified. Every person who, on July 14, 1960, is a member shall continue to serve for the balance of the term to which he has been appointed (any vacancy in said balance of said term to be filled by appointment for the unexpired portion thereof) and upon expiration of said term the three-year term herein provided shall immediately commence, but such member shall continue to serve until his successor is appointed and has qualified. No person who has served six years or more consecutively as a member shall be reappointed as such member until after the expiration of one year from the end of such service.

2. If, in the opinion of the Council, it is considered necessary or desirable to augment the effort of the Council in order to carry out its work, the Council may request the Commissioners to designate other citizens as affiliate members of the Council. Affiliate members may serve on committees and take part in such proceedings as determined by the Council but shall have no vote in Council deliberations. Terms of service for affiliate appointees shall be as in preceding paragraph 1, of Part III.

* * * * *

ORGANIZATION ORDER NO. 112.—BOARD OF APPEALS AND REVIEW

Organization Ord. 112, 55–1500, dated Aug. 11, 1955, as amended July 12, 1960, Aug. 9, 1960, Dec. 15, 1960, Apr. 25, 1961, and Mar. 15, 1962, ordered that:

PART I.—BOARD OF APPEALS AND REVIEW

A. *Establishment.*—The Board of Appeals and Review, established in Part VIII of Reorganization Order No. 55, as amended, is hereby reconstituted as described below.

B. *Purpose, composition, qualifications of members and terms of office:*

1. The Board of Appeals and Review is an administrative agency in the Government of the District of Columbia providing a final administrative remedy in those cases assigned to it.

2. The Board of Appeals and Review shall consist of twenty-two members. The Chairman and Vice Chairman of the Board shall be designated by the Commissioners, provided, however, that the Vice Chairman shall exercise the authorities of the Chairman only in the absence of said Chairman.

3. Of the twenty-two members of the Board,

(a) seven shall be full-time employees of the District of Columbia of grade GS–13 or higher, but no such member shall be an employee of the District of Columbia in either the Office of the Corporation Counsel or in the Department of Licenses and Inspections. These employees shall receive no additional compensation for work performed by virture of their appointment or service as members of the Board.

(b) fourteen shall be intermittent employees of the District of Columbia, each of whom resides in said District or owns in his own name real property therein, seven of whom shall be members of the Bar of the District of Columbia who have had at least five years experience in the active practice of law in the District of Columbia, and eight of whom shall be persons who possess, to the extent that the Commissioners may deem it necessary or desirable, insight and perspectives in the fields of architecture, construction, finance, public health, and social service, and with respect to whom the Commissioners shall take into account their qualifications, experience

and community interests. These employees shall receive compensation when actually performing service as members of the Board.

4. The term of office of each member of the Board shall be three years, except that commencing May 1, 1960, the terms of two full-time and four intermittent members shall be for one (1) year from May 1, 1960, the terms of two full-time and four intermittent members shall be for two (2) years from May 1, 1960, and the terms of three full-time and seven intermittent members shall be for three years from May 1, 1960. Every vacancy shall be filled only for the unexpired portion of the term. After the expiration of his term each member shall continue to serve until his successor has been appointed and qualified. Members shall be appointed, and may be removed, by the Commissioners of the District of Columbia. On April 30, 1960, the terms of office and continued service of all members theretofore appointed to the Board shall terminate. No person who has served continuously for six years or more as a member of the Board as heretofore constituted or as constituted by this order shall be reappointed as a member until the expiration of one year from the end of such service.

* * * * *

D. *Organization.*

1. * * *

2. (a)(1). * * *

(2) The Chairman is authorized, in appeals involving the termination by operation of law of licenses issued under the authority of the regulations adopted and promulgated by Commissioners' Order of May 28, 1943 (E.D. 210583–54), and November 24, 1943 (E.D. 236470–27), known as the "Temporary Regulations", to require preliminary conferences between appellants and attorney members of the Board for the purpose of determining whether the appeals filed by such appellants state cases on which relief can be granted. To this end, the Chairman is authorized from time to time to designate attorney members of the Board who are not full-time employees of the District of Columbia to conduct conferences having for their purpose the determination of whether appellants have grounds upon which relief can be granted for contesting the acts or decisions from which they are appealing. Each attorney member so designated by the Chairman shall have authority to confer with an appellant concerning the validity of his appeal; to require the attendance of such officers or employees, or the production of such records, of the District of Columbia as may be necessary, in the discretion of the attorney member, to permit him to evaluate such appeal; to permit the appellant to amend his appeal; and to act on behalf of the Board to dismiss any appeal which, after opportunity for amendment has been given the appellant, fails in the opinion of the attorney member to state a case. Such dismissal by the attorney member shall be the final action of the Board. It shall, however, as any other final action of the Board, be subject to reconsideration by the Board, upon timely application by the appellant, in accordance with the Board's Rules of Practice and Procedure. Any attorney member of the Board who conducts a conference under the authority of this paragraph shall not, after disposing of the matter, be eligible to serve in connection with any reconsideration of the matter by the Board.

(b)(1) * * *

(2) The Chairman may, in lieu of assigning to a Hearing Committee an appeal involving the termination by operation of law of a license issued under the authority of the Temporary Regulations, refer to an attorney member of the Board designated under the authority of subparagraph (2) of the preceding paragraph (a) any such appeal which, in the opinion of the Chairman, requires or merits a conference as authorized by such subparagraph (a)(2). After such conference, the Chairman shall take such action on behalf of the Board as is necessary in the light of the action or recommendation of the attorney member conducting such conference. If such action results in the dismissal of an appeal, such dismissal shall be subject to reconsideration by the Board, upon timely application therefor by the appellant, filed in accordance with the Board's Rules of Practice and Procedure.

ORGANIZATION ORDER NO. 113.—PROFESSIONAL VOCATIONAL REHABILITATION ADVISORY COUNCIL

[Rescinded by Order No. 62–1959, Oct. 11, 1962.]

ORGANIZATION ORDER NO. 114.—GENERAL VOCATIONAL REHABILITATION ADVISORY COUNCIL

[Rescinded by Order No. 62–1960, Oct. 11, 1962.]

ORGANIZATION ORDER NO. 121.—DEPARTMENT OF GENERAL ADMINISTRATION, FINANCE OFFICE

Organization Ord. No. 121, 57–3276, Dec. 12, 1957, as amended Apr. 24, 1956, Nov. 13, 1958, Oct. 25, 1960, Aug. 24, 1961, and Apr. 26, 1962, ordered:

* * * * *

PART IV

* * * * *

A. *Office of the Finance Officer:*

* * * * *

13. Except as to such duties and functions as are performed in connection therewith by the Recorder of Deeds, D.C., administers, as agent of the Commissioners, the provisions of Title III of Public Law 87–408, 87th Congress, approved March 2, 1962.

* * * * *

B. *Property Tax Division:*

* * * * *

6. Administers real estate tax sales.

7. Performs such incidental duties as may be necessary for the proper performance of the functions assigned.

* * * * *

D. *Treasury Division:*

1. Collects revenues of the District of Columbia, accounts for and distributes all collections into appropriate revenue accounts, and deposits with the Treasurer of the United States all funds so received.

2. Makes disbursements in accordance with law and regulation, in cash or by checks drawn on the Treasurer of the United States, based on vouchers and payrolls duly certified by a designated certifying officer, and is accountable therefor.

3. Is responsible for all balances with the United States Treasury.

4. Dispenses and accounts for tax stamps.

5. Is responsible for the custody of trust fund securities.

G. *Processing Division:*

* * * * *

8. Stricken by order dated Aug. 24, 1961.

ORGANIZATION ORDER NO. 122.—DEPARTMENT OF HIGHWAYS AND TRAFFIC

Organization Ord. No. 122, 59–33, Jan. 8, 1959, and amended Oct. 17, 1961, ordered:

That Reorganization Order No. 53, dated June 30, 1953, as amended, is hereby redesignated Organization Order No. 122, and amended to read as follows:

* * * * *

PART IV

* * * * *

D. *Bureau of Construction and Maintenance.*—Directs the construction, maintenance, repair, and inspection program for highway projects and municipal wharves; performs field survey work on highway projects; procures, maintains, repairs and houses departmental vehicles and equipment and such non-departmental vehicles and equipment as the Commissioners order from time to time; performs landscaping in street right-of-way and activities related to the maintenance and beautification of such streets; operates draw spans; controls the transporting of over or undersize loads through the District; participates and furnishes equipment during emergency snow removal; furnishes expert testimony in legal cases; coordinates its activities with concerned Federal, District or private agencies; maintains grounds and public parking under the jurisdiction and control of the District of Columbia Government other than those specifically

assigned to other District Government departments, agencies and institutions; and operates and maintains special-use buildings and facilities under the exclusive jurisdiction of the Department of Highways and Traffic, including the maintenance of adjacent grounds and the providing of necessary protective, elevator, custodial and other related services.

* * * * *

ORGANIZATION ORDER NO. 125.—COMMISSIONERS' COUNCIL ON HUMAN RELATIONS

Organization Ord. No. 125, 61–846, May 9, 1961, ordered that:

In accordance with the public policy of the United States that all citizens without regard to their race, religion, color, ancestry or national origin shall have equality of opportunity with respect to employment in the government and in the use of government facilities and services, the Board of Commissioners issued its policy orders prohibiting discrimination in the District of Columbia Government and in connection with work performed under District Government contracts ordered that:

Commissioners' Order No. 58–535, dated April 9, 1958, as amended, establishing a Commissioners' Council on Human Relations, is hereby redesignated Organization Order No. 125, and amended to read as follows:

That in keeping with these policy orders and with the public policy of the United States to encourage harmonious relations among the residents of every community and to encourage the granting of equality of opportunity by persons engaged in private business, the Board of Commissioners hereby creates the Commissioners' Council on Human Relations.

1. *Purpose.*—The purpose of the Council shall be to advise and assist the Commissioners to promote, foster, and encourage (a) the full and impartial application and observance of the Commissioners' policy on nondiscrimination within the District Government as it relates to employment and use of District-owned facilities; (b) the full and impartial application and observance of fair employment practices by persons holding District Government contracts; (c) with the approval of persons or corporations concerned, the observance and practice of fair employment policies by persons or firms in the District of Columbia; and (d) the observance and practice of good human relations, mutual understanding and equality of opportunity among the various racial, religious and ethnic groups of the community.

2. *Functions.*—a. The Council shall study, and upon complaint inquire into, and advise and assist the Board of Commissioners in relation to the following:

(1) Commissioners' nondiscrimination policy order on employment in District Government and use of District-owned facilities.

(2) Procedures to promote, assure, and maintain equal access to and advancement in employment in the District Government.

(3) Procedures prescribed by the District Government to assure compliance with the nondiscrimination-in-employment clause inserted in District contracts, in accordance with the policies of the Commissioners mentioned herein.

(4) Complaints of discrimination in employment patterns and practices contrary to the Commissioners' policy relating to District Government contracts.

(5) Programs for assisting officials, supervisors and employees of the District of Columbia Government in improvement of human relations practices.

(6) Educational programs for employer, labor, civic, educational, religious, and other nongovernmental groups in order to eliminate or reduce the basic causes of discrimination on the ground of race, creed, color or national origin.

b. The Council shall receive and may investigate complaints of tension, conflict and practices of discrimination and of efforts or activities of individuals or groups to incite discord, tension, hate and suspicion which may lead to breaches of peace and public disorder.

c. The Council shall serve in an advisory and consultative capacity to all departments, advisory boards, regulatory agencies and for other organizations of District Government to assure the effective compliance with the Commissioners' nondiscrimination policies and orders.

d. The Council shall perform any other advisory duties as directed by the Commissioners for the promotion of better human relations and understanding among community groups.

3. *Composition and term of office.*—The Council shall consist of nine (9) members selected by the Board of Commissioners. Persons appointed to serve on the Council shall be outstanding persons residing or having their principal places of business in the District of Columbia and representing a cross section of the viewpoints of the community. Salaried District Government employees shall not be eligible to serve as members of the Council. Members shall hold office for terms of three (3) years. Should a vacancy occur through the death, incapacity or resignation of a member, a successor shall be appointed to complete the unexpired term and in the same manner as regular appointments. No person who has served six years or more consecutively as a member shall be reappointed as such member until after the expiration of one year from the end of such service.

4. *Oath of office.*—Members shall take an oath of office as follows:

> "I, ----------, having been duly appointed by the Board of Commissioners as a member of the Commissioners' Council on Human Relations, do solemnly swear that I will support and defend the Constitution of the United States; that I will perform such duties as may be assigned to me as a member of said Council to the best of my ability without fear or favor; that I will exercise my best judgment and will consider each matter before me from the viewpoint of the best interest of the District of Columbia as a whole; and that I will well and faithfully discharge said duties; so help me God."

5. *Compensation.*—Members shall serve without compensation.

6. *Organization.*—The Board of Commissioners shall designate an Executive Director to serve the Council and such additional staff as the Board may deem necessary. The Executive Director to the Council shall have no vote. At the initial meeting in each fiscal year, following the appointment of new members, the Council shall determine its own organization, name its own officers other than the Chairman, who shall be designated by the Board of Commissioners. It shall meet at the call of the Board of Commissioners, the presiding officer of the Council, or a majority of the Council membership.

7. *Administration.*—The Executive Director of the Council shall be responsible for the administration of the Council. Expenses incurred by the Council as a whole, or by individual members, or its staff, shall be met from funds provided for the administration of District affairs.

8. *Reports.*—The Council shall regularly report its activities to the Board of Commissioners.

ORGANIZATION ORDER NO. 126.—COMMISSIONERS' ADVISORY COMMITTEE ON PRACTICAL NURSING

Organization Ord. No. 126, 61–1046, June 19, 1961, ordered that:

There is hereby created in the District of Columbia an Advisory Committee on Practical Nursing.

PART I

Purpose.—The purpose of the Committee shall be to advise the Commissioners in preparing for carrying out the provisions of Public Law 86–708 pertaining to the licensing of practical nurses in the District of Columbia which shall become effective July 29, 1961.

PART II

Functions.—A. The Committee shall consider the following matters and advise the Commissioners thereon:

(1) The promulgation of regulations designed to implement Public Law 86–708.

(2) The establishment of fees to be collected by the Department of Occupations and Professions for services rendered in connection with the licensing of practical nurses in the District of Columbia.

(3) The establishment of standards for the accreditation of schools of public nursing in the District of Columbia.

(4) The establishment of policies and procedures pertaining to the licensing of practical nurses in the District of Columbia.

(5) The issuance of bylaws pertaining to the functions and activities of the District of Columbia Practical Nursing Examining Board to be established pursuant to Public Law 86–708.

B. The Committee shall serve in an advisory capacity to the Director, Department of Occupations and Professions.

C. The Committee shall perform other advisory duties pertaining to Public Law 86–708 as directed or requested by the Commissioners.

PART III

Composition.—The Committee shall consist of seven members appointed by the Board of Commissioners on the basis of personal qualification. Persons appointed to membership on the Committee shall be of outstanding ability and shall be currently employed in the District of Columbia either as a practical nurse or as a graduate nurse duly registered under the Act of February 9, 1907, as amended, with at least five years of experience as a nurse since graduation. Three members of the Committee shall be practical nurses and four members shall be graduate nurses.

PART IV

Term of office.—All appointments of members to the Committee shall expire as of midnight July 28, 1961, at which time the Committee shall be abolished.

PART V

Compensation.—Members shall serve without compensation.

PART VI

Oath of office.—Members shall take an oath of office as follows:

"I, ----------, having been duly appointed by the Board of Commissioners as a member of the Advisory Committee on Practical Nursing, do solemnly swear that I will support and defend the Constitution of the United States; that I will perform such duties as may be assigned to me as a member of said Committee to the best of my ability without fear or favor; that I will exercise my best judgment and will consider each matter before me from the viewpoint of the best interest of the District of Columbia as a whole; and that I will well and faithfully discharge said duties; so help me God."

PART VII

Organization.—Except for a Chairman who shall be designated by the Board of Commissioners, the Committee shall determine its own organization select its own officers and establish its own rules of procedure. The Committee shall meet upon the call of the Commissioners, the Chairman of the Committee, or a majority of the Committee membership.

ORGANIZATION ORDER NO. 127.—COMMITTEE ON EMPLOYEE CONDUCT

Organization Ord. No. 127, 61–1430, Aug. 17, 1961, ordered that:

There is hereby designated a Committee on Employee Conduct composed of the three special assistants to the Commissioners. The Special Assistant to the President of the Board of Commissioners shall serve as permanent chairman. The Attorney-Editor, Office of the Secretary to the Board of Commissioners, shall serve as staff to the Committee.

The purpose of the Committee is to provide a point of contact, organizationally close to the Commissioners, for receiving and reviewing complaints, including anonymous calls, and for the handling of inquiries regarding matters that indicate possible misconduct by District Government officials and employees.

The Committee shall receive complaints, including anonymous calls and handle inquiries regarding matters that indicate possible misconduct on the part of District Government officials and employees; obtain and review all of the facts pertaining to such complaints; and advise the Commissioners in those instances where the nature and seriousness of the complaint or inquiry warrants the attention of the Commissioners.

District Government departments and agencies will be expected to cooperate and assist the Committee in the performance of its functions.

Nothing in this Order shall supersede or modify the provisions of Reorganization Order No. 48, dated June 26, 1953, as amended, which established Police Trial and Review Boards; Reorganization Order No. 39, dated June 18, 1953, which established Fire Trial Boards; or Organization Order No. 125, dated May 9, 1961, as amended, which established the Commissioners' Council on Human Relations.

ORGANIZATION ORDER NO. 128.—COMMISSIONERS' COMMITTEE ON COMMUNITY RENEWAL

Organization Ord. No. 128, 62–285, Feb. 13, 1962, ordered:

There is hereby established in the Government of the District of Columbia a Commissioners' Committee on Community Renewal.

PART I

Policy.—The Government of the District of Columbia, working in close liaison and in cooperation with the National Capital Housing Authority, National Capital Planning Commission, and D.C. Redevelopment Land Agency, in accordance with the Housing Act of 1961, dedicates itself, and such of its resources and facilities as are available for such purposes, to the development of a realistic set of goals and objectives for the prevention and elimination of blight and deterioration in the District of Columbia through a Community Renewal Program.

PART II

Purpose.—The primary purpose of the Commissioners' Committee on Community Renewal shall be to advise the Board of Commissioners, through the Assistant Engineer Commissioner for Urban Renewal, on a realistic set of goals and objectives for the elimination of blight and deterioration in the District of Columbia through a Community Renewal Program.

PART III

Functions.—The activities of the Committee shall include, but are not limited to, the following activities:

1. To develop a basis of fact regarding existing structural conditions, neighborhood environment and blighting influences within the District of Columbia by:

a. Identifying all slum, blighted, deteriorated and deteriorating areas; and

b. Analyzing the nature and degree of blight and blighting influences within the area.

2. To identify the scope and character of the total need for renewal activities and the type of renewal treatment required to meet these needs within the framework of a Comprehensive Plan.

3. To establish the basic urban renewal objectives and policies to guide the development and effectuation of an overall, long-range program of urban renewal.

4. To establish the total program requirements necessary to achieve the basic objective of eliminating blight in the District of Columbia and relate this need to the anticipated resources of the District in regard to the following:

a. Financing such a program.

b. Handling the anticipated relocation load.

c. Providing the necessary rehousing accommodations.

d. Having the necessary legal authority, administration machinery and capacity for the enforcement of codes and ordinances, and for carrying out such a renewal program.

5. To establish a basic frame of reference and a procedure for the selection and delineation of individual projects and the determination of the priority and scheduling of individual projects within the overall Community Renewal Program.

6. To coordinate the preparation of the Community Renewal Program with the development of the Comprehensive Plan for the Nation's Capital.

PART IV

Composition and Membership.—1. The Commissioners' Committee on Community Renewal shall consist of the Assistant Engineer Commissioner for Urban Renewal, who shall serve as chairman, and the following ex-officio members:

Executive Director, National Capital Housing Authority;

Director, National Capital Planning Commission;

Executive Director, D.C. Redevelopment Land Agency;

Director, Department of General Administration;

Director, Department of Licenses and Inspections.

2. Staff assistance to the Committee will be furnished by the Office of Urban Renewal as determined by the Assistant Engineer Commissioner for Urban Renewal, who shall designate an Executive Secretary to the Committee from the Office of Urban Renewal.

3. The Commissioners' Committee on Community Renewal shall determine its own rules of procedure and may, if it so desires, establish and fill such additional officer positions, from its membership, as it may consider appropriate.

PART V

Effective date.—This Order shall be effective on and after Feb. 13, 1962.

ORGANIZATION ORDER NO. 129.—COMMITTEE ON MENTAL HEALTH NEEDS

Organization Ord. 129, 62–593, Mar. 19, 1962, ordered: That there is hereby established a special (ad hoc) Committee on Mental Health Needs, consisting of key legislative, executive, Federal and District, lay and professional persons, to evaluate mental health needs in the District of Columbia and to recommend solutions to these needs. This Committee shall be responsible for proposing appropriate action in both the public and private sectors of D.C. mental health field, and for developing priorities and cost estimates, as well as for consideration of facilities and services for prevention, treatment, and rehabilitation of mental illness.

ORGANIZATION ORDER NO. 130.—OFFICE OF RECORDER OF DEEDS, REAL ESTATE RECORDATION TAX

This order dated Apr. 26, 1962, relating to the recordation tax act [Sec. 45–721 et seq.] is set out as a note to section 45–721.

ORGANIZATION ORDER NO. 131.—MANPOWER ADVISORY COMMITTEE FOR D.C.

Organization Ord. No. 131, 62–1076, June 19, 1962, ordered:

There is hereby established in the Government of the District of Columbia a committee of persons representing management, labor, and the public at large to be known as the Manpower Advisory Committee for the District of Columbia.

PART I

Purpose.—The purpose of the Committee is to insure full community participation and support in the District's program of providing occupational training for the unemployed or underemployed under the provisions of the Manpower Development and Training Act of 1962.

PART II

Functions.—The functions of the Committee are to advise the Board of Commissioner, the Superintendent of Schools and the Director, United States Employment Service for District of Columbia on the following:

(1) Determining in advance what skills are going to be needed, where they will be needed, and what quantities.

(2) Studying the factors that impede the mobility of workers.

(3) Developing new training programs or revising existing ones.

(4) Developing on-the-job programs in local establishments.

(5) Facilitating the placement of trainees.

(6) Making maximum use of the skills and potentials of workers and assuring equal opportunity for employment of workers in accordance with their qualifications.

PART III

Composition.—The Committee shall consist of nine (9) members appointed by the Board of Commissioners and subject to removal at the discretion of the Board of Commissioners. The members shall be chosen so that three represent management, three represent labor and three represent the public at large. Members shall serve without compensation.

PART IV

Terms of appointment.—All appointments of members to the Committee shall expire as of midnight, June 30, 1965, at which time the Committee shall be abolished.

PART V

Organization.—The Committee shall designate its own officers.

ORGANIZATION ORDER NO. 132.—COMMITTEE ON YOUTH OPPORTUNITY AND COMMUNITY IMPROVEMENT

Organization Ord. No. 132, 62-1280, July 24, 1962, ordered that:

Preamble. A resolution, issued on June 29, 1962, by the President's Committee on Juvenile Delinquency and Youth Crime, reads in part as follows:

"To expedite a program of youth services, we are now allocating $100,767 from funds made available under the Juvenile Delinquency And Youth Offenses Control Act of 1961 to employ an immediate planning staff for the Washington metropolitan area.

"This staff, directly responsible to us, will work in close cooperation with the Board of Commissioners and the departments of the City, and will consult with interested citizens and groups throughout the metropolitan area. They will report * * * on the design of a planning program and appropriate vehicles for action. They will make recommendations on the best structure needed to support this plan of action."

Pursuant to the intent and purposes of this Resolution, it is hereby ordered:

PART I

Committee on Youth Opportunity and Community Improvement.—There is established, under the supervision and control of the Board of Commissioners, a Committee on Youth Opportunity and Community Improvement, herein referred to as the Committee.

PART II

Functions.—The Committee shall perform the following functions:

A. Serve as an advisory group to the Board of Commissioners in connection with the grant to the District of Columbia, as announced in the Committee Resolution.

B. Serve as an advisory and consulting group to the planning staff which is responsible, under the President's Committee, for designing a planning program for the District of Columbia, on such matters as the organizational structure needed for effective planning and action programs, and the preparation of the District's application for a planning grant scheduled for review by the President's Committee before the end of 1962.

PART III

Composition.—The Committee shall consist of the designated representative of the following organizations:

A. *Community Organizations.*—

1. Americans for Democratic Action.
2. Archdiocese of Washington.
3. Boy Scouts of America, National Capital Area Council.
4. Council of Churches, National Capital Area.
5. District of Columbia Chamber of Commerce.
6. D.C. Congress of Parents and Teachers.
7. D.C. Junior Chamber of Commerce.
8. Democratic Central Committee for D.C.
9. District of Columbia Medical Association.
10. Federation of Business Men's Associations, Metropolitan Area.
11. Federation of Citizens Associations.
12. Federation of Civic Associations.
13. Greater Washington Central Labor Council.
14. Health and Welfare Council.

15. Jewish Community Council of Greater Washington.
16. Junior League of Washington, Inc.
17. K Street Young Women's Christian Association.
18. League of Women Voters.
19. Metropolitan Washington Board of Trade.
20. National Association for the Advancement of Colored People.
21. National Conference of Christians and Jews.
22. National Council of Jewish Women.
23. Republican Committee for the D.C.
24. Washington Urban League.
25. Young Men's Christian Association, Twelfth Street Branch.

B. *Universities.*
1. American University.
2. Catholic University of America.
3. Georgetown University.
4. George Washington University.
5. Howard University.
6. University of Maryland.

C. *Government agencies.*
1. Commissioners' Offices.
2. Commissioners' Youth Council.
3. Department of General Administration.
4. Department of Public Health.
5. Department of Public Welfare.
6. Department of Vocational Rehabilitation.
7. Metropolitan Police Department.
8. National Capital Housing Authority.
9. Office of Urban Renewal.
10. Public Library.
11. Public Schools.
12. Recreation Department.
13. The Juvenile Court of the District of Columbia.
14. U.S. Employment Service for the D.C.

Additional organizations may be represented on the Committee, from time to time, in order to insure maximum community support of the planning and action programs.

PART IV

Terms of appointment.—A. Terms of appointment of members shall continue until such time as the permanent organizational structure needed for effective planning and action programs is determined and established, at which time all appointments shall automatically expire and the Committee shall be abolished.

B. Alternate representatives may be designated, at the discretion of the organization or member representing an organization. However, such matters as voting privileges will be restricted to one vote per organization represented.

PART V

Compensation.—Members shall serve without compensation.

PART VI

Organization.—A. The Committee shall be initially composed of a Chairman, three Associate Vice Chairmen, and a Secretary, to be elected by simple majority of Committee members present and voting at its initial meeting. These five elected officers shall comprise the Executive Board of the full Committee. The Executive Board may be expanded to include additional members, elected at large, in the discretion of the membership.

B. The Chairman, upon the advice and consent of the Executive Board, may appoint such subcommittees as are considered necessary to fulfill the purpose and functions of the Committee.

PART VII

Secretarial service.—Secretarial services shall be provided from the planning staff which is responsible to the President's Committee.

ORGANIZATION ORDER NO. 133

[There is no material for this organization order, since it was vacated before publication. However the number has been reserved for future material.]

ORGANIZATION ORDER NO. 134.—ADVISORY COUNCIL ON VOCATIONAL REHABILITATION

Organization Ord. No. 134, 62–1959, Oct. 11, 1962, ordered that:

PART I

A. *Establishment.*—There is hereby established in the Government of the District of Columbia a permanent committee of citizens to be known as the Advisory Council on Vocational Rehabilitation.

B. *Functions.*—The functions of the Council are to advise the Board of Commissioners and the Director, Department of Vocational Rehabilitation, with respect to the following:

1. Policy and operational aspects of the vocational rehabilitation program of the District of Columbia. The Council shall make such recommendations as it may deem appropriate with respect to matters affecting the vocational rehabilitation program; keeping appropriate District officials informed of the reactions of those segments of the public affected by or interested in the vocational rehabilitation program; and providing leadership among organizations and the public at large to create understanding of the program and to enlist cooperation in its implementation.

2. Fees for rehabilitation services provided to the Department's clients.

3. Interpretation of the varied medical, occupational, and other aspects of the vocational rehabilitation program for interested citizens.

4. Provision of the leadership necessary for members of medical and related professional groups to understand the program.

5. Such recommendations as it may deem appropriate with respect to rehabilitation matters affecting the program; and

6. Provision of adequate in-service staff training in rehabilitation understanding for the staff of the Department.

C. *Composition and Membership:*

1. The Advisory Council on Vocational Rehabilitation shall consist of fifteen (15) members in addition to three ex officio members who shall be the Chairman of the Commissioners' Committee on Employment of the Physically Handicapped, and the two medical Consultants to the Director, Department of Vocational Rehabilitation. Members shall be chosen on the basis of their experience, reputation, or demonstrated interest in the field of vocational rehabilitation of the physically handicapped.

2. Members shall be appointed by the Board of Commissioners after consideration of nominations made by the Director, Department of Vocational Rehabilitation, and such other sources as they may consider appropriate.

D. *Terms of Appointment:*

1. Members shall hold office for terms of three years, except that of the initial appointments of members following the effective date of this Order, one-third shall serve for one year, such terms to expire October 31, 1963; one-third for two years, such terms to expire October 31, 1964; and one-third for three years, such terms to expire October 31, 1965. Should a vacancy occur through the death, incapacity or resignation of a member, a successor may be appointed to complete the unexpired term in the same manner as regular appointments. No person shall serve more than two consecutive terms but may be reappointed after a lapse of one year.

2. If a member is appointed more than one day after the date ending the preceding term, the term of such member shall expire three years from the date ending the preceding term rather than three years from the date of his appointment.

E. *Compensation.*—Members shall serve without compensation.

F. *Organization.*—At the initial meeting each year following the appointment of new members, the Council shall elect from among its members such officers as it deems necessary. All meetings of the Council will be on call of the Chairman, who shall call at least one meeting during each quarter of each fiscal year.

PART II

Effective date.—This Order shall be effective on and after October 11, 1962.

ORGANIZATION ORDER NO. 135.—COMMISSIONERS' ADVISORY COMMITTEE ON PHYSICAL THERAPY

Organization Ord. No. 135, 62–2144, Nov. 15, 1962, ordered that:

There is hereby created in the District of Columbia an Advisory Committee on Physical Therapy.

PART I

Purpose.—The purpose of the Committee shall be to advise the Commissioners in preparing for carrying out the provisions of Public Law 87–280 pertaining to the licensing of physical therapists in the District of Columbia, which shall become effective February 20, 1963.

PART II

Functions.—A. The Committee shall consider the following matters and advise the Commissioners thereon:

(1) The promulgation of regulations designed to implement Public Law 87–280.

(2) The establishment of fees to be collected by the Department of Occupations and Professions for services rendered in connection with the licensing of physical therapists in the District of Columbia.

(3) The establishment of policies and procedures pertaining to the licensing of physical therapists in the District of Columbia.

(4) The issuance of by-laws pertaining to the functions and activities of the District of Columbia Physical Therapists Examining Board to be established pursuant to Public Law 87–280.

B. The Committee shall serve in an advisory capacity to the Director, Department of Occupations and Professions.

C. The Committee shall perform other advisory duties pertaining to Public Law 87–280 as directed or requested by the Commissioners.

PART III

Composition.—The Committee shall consist of three members appointed by the Board of Commissioners on the basis of personal qualifications. Persons appointed to membership on the Committee shall be of outstanding ability. They shall be currently practicing as physical therapists in the District of Columbia, with at least five years experience in physical therapy.

PART IV

Term of Office.—All appointments of members to the Committee shall expire as of midnight February 19, 1963, at which time the Committee shall be abolished.

PART V

Compensation.—Members shall serve without compensation.

PART VI

Oath of Office.—Members shall take an oath of office as follows:

"I, _____, having been duly appointed by the Board of Commissioners as a member of the Advisory Committee on Physical Therapy, do solemnly swear that I will support and defend the Constitution of the United States; that I will perform such duties as may be assigned to me as a member of said Committee to the best of my ability without fear or favor; that I will exercise my best judgment and will consider each matter before me from the viewpoint of the best interest of the District of Columbia as a whole; and that I will well and faithfully discharge said duties; so help me God."

PART VII

Organization.—Except for a Chairman who shall be designated by the Board of Commissioners, the Committee shall determine its own organization, select its own officers, and establish its own rules of procedure. The Committee shall meet upon the call of the Commissioners, the Chairman of the Committee, or a majority of the Committee membership.

TITLE 2.—DISTRICT BOARDS AND COMMISSIONS

Chapter 1. HEALING ARTS PRACTICE

§ 2–103. Commission on licensure—Creation—Seal.

CODIFICATION

The second paragraph of this section as set out in the main volume of this code is comprised of section 5 of the act of Feb. 27, 1929, 45 Stat. 1327, ch. 352. Section 1 of the act of Sept. 14, 1961, 75 Stat. 518, Pub. L. 87–248 [set out in section 2–103a] amends section 5 by inserting (a) immediately before the first word of the section and by adding a subsection (b) thereto. For the sake of clarity it is deemed advisable to separate section 5, as amended, from this section of the Code and transfer it to section 2–103a in this supplement.

§ 2–103a. Standards of education and training—Register of approved schools and hospitals—License on years of practice—Graduates of foreign medical schools.

(a) The Commission shall establish minimum standards of preprofessional and professional education in the healing art and may establish minimum standards for hospitals for interne training. It may determine whether preprofessional and professional schools, and whether hospitals, attain such standards. It shall keep a record of its investigations and determinations with respect to all schools and hospitals and shall approve and enter in a proper register every school and every hospital attaining the prescribed standard or which had attained such standard during its existence. The Commission may redetermine from time to time the standing of any school or hospital and may revise its register accordingly. The Commission shall give no credit for any certificate, diploma, or degree emanating from any school, and it may refuse to give any credit for any certificate or diploma emanating from any hospital, not duly registered as provided by this chapter: *Provided,* That this requirement as to registration shall not apply in the case of persons applying for license on years of practice under the provisions of section 2–120.

(b) Notwithstanding the requirements of the preceding subsection relating to registration, in the case of persons presenting evidence of graduation from a medical school or training in a hospital not located in the United States, the commission is authorized to accept certificates from the Educational Council for Foreign Medical Graduates or other organizations approved by (1) the American Medical Association, (2) the Association of American Medical Colleges, (3) the Federation of State Medical Boards, and (4) the American Hospital Association as being qualified to examine and evaluate the professional skill, training, and qualifications of graduates of foreign medical schools, such certificates to show that the applicants have successfully qualified under an American Medical Qualification Examination of such Educational Council for Foreign Medical Graduates, or an examination comparable in form and comprehensive coverage of subject matter to an American Medical Qualification Examination. (Feb. 27, 1929, 45 Stat. 1327, ch. 352, § 5; June 25, 1948, 62 Stat. 909, ch. 646, § 1; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; Sept. 14, 1961, 75 Stat. 518, Pub. L. 87–248, § 1.)

AMENDMENT

1961—Sec. 1, act Sept. 14, 1961, inserted (a) before the first word of the first paragraph and added subsection (b) thereto. The first paragraph is transferred from section 2–103 of the Code. See note to section 2–103.

§ 2–122. Evidence to be submitted with application—Licensing of those practicing before effective date of this chapter—Education and training.

Each applicant for a license to practice the healing art, to be issued after examination, shall submit with his application proof satisfactory to the Commission that he is not less than twenty-one years of age; that he is of good moral character; that he has had not less than two years of preprofessional education and training in a college or university acceptable to the Commission before entering on the study of the healing art; that he has been graduated from a professional school registered under this chapter; with the degree of doctor of medicine, doctor of osteopathy, or some equivalent degree; and, if required by the Commission, that he has had not less than one year of training in a hospital registered by the Commission under this chapter; *Provided,* That the commission shall by rule provide for determining whether an applicant who has been graduated from a professional school registered under this Act at a time when such school was not so registered may be admitted to examination, and such commission shall, in determining whether any such applicant shall be admitted to examination under this section, take into consideration whether the curriculum and the qualifications of the faculty of such school were substantially the same during the period the school was attended by the applicant as they were at the time the school first became registered under this Act, and if the commission shall so find, such applicant shall be admitted to examination: *Provided further,* That an applicant who has had the education and training required above, in preprofessional and professional schools, but whose graduation has been deferred by the professional school he last attended until after he has completed his training in a registered hospital, may be admitted to examination; but no license shall be issued to any such applicant until after he has been graduated from a registered school: *Provided fur-*

ther, That an applicant for a license to be issued after examination who was graduated before February 27, 1929, by a school registered under this chapter may, if otherwise qualified, be admitted to examination upon proof by the applicant of such preprofessional and professional education and training, and of such graduation, as were required by the laws of the District of Columbia regulating the practice of medicine and surgery at the time of such graduation: *Provided further,* That an applicant for a license to practice osteopathy and surgery who has been graduated as aforesaid prior to December 31, 1930, shall be examined and licensed on showing that he was graduated by a high school acceptable to the Commission before he entered on the study of osteopathy and that he in all other respects is qualified as aforesaid for examination: *And provided further,* That an applicant for a license to practice drugless healing, who has been graduated before December 31, 1935, may be admitted to examination on proof that before entering on the study of drugless healing he was graduated by a high school acceptable to the Commission and that he in all other respects is qualified as aforesaid for examination, and was graduated by a school registered under this chapter, teaching the method of healing that he intends to follow, with a degree appropriate to that method of healing, after not less than three graded courses of resident study and training of at least six months each. After December 31, 1935, every such applicant shall be required to submit, before he is referred to an examining board for examination, evidence of not less than two years' education in a college acceptable to the Commission and not less than four graded resident courses of professional study of not less than nine months each, in the same manner and to the same extent as are required of other applicants for licenses to practice the healing art.

An applicant for a license to practice midwifery shall submit proof, satisfactory to the Commission, that before beginning the study of midwifery she had been graduated by a high school acceptable to the Commission and thereafter studied midwifery in a school of midwifery registered under this chapter, for at least two graded courses of six months each, including attendance of not less than twenty-five cases of labor, and was duly graduated by that school. (Feb. 27, 1929, 45 Stat. 1336, ch. 352, § 26; Sept. 14, 1961, 75 Stat. 518, Pub. L. 87–248, § 2.)

AMENDMENT

1961—Section 2, act Sept. 14, 1961, amended section by (a) striking "studied the healing art through not less than four graded courses of not less than nine months each, in a professional school or schools registered under this Act [this chapter], and has been graduated by such a school", and inserting in lieu thereof "been graduated from a professional school registered under this Act" [this chapter]; and (b) by inserting immediately after "*Provided,*" where it first appears in the section the following: "That the commission shall by rule provide for determining whether an applicant who has been graduated from a professional school registered under this Act [this chapter] at a time when such school was not so registered may be admitted to examination, and such commission shall, in determining whether any such applicant shall be admitted to examination under this section, take into consideration whether the curriculum and the qualifications of the faculty of such school were substantially the same during the period the school was attended by the applicant as they were at the time the school first became registered under this Act [this chapter], and if the commission shall so find, such applicant shall be admitted to examination: *Provided further,*".

The section as so amended is set out above.

§ 2–141. Delegation of functions of "Commission"—Definition.

Wherever the term "commission" is used in this chapter, such term shall mean the office or agency to which the Board of Commissioners of the District of Columbia, pursuant to the authority contained in Reorganization Plan Numbered 5 of 1952 (66 Stat. 824), has delegated or may from time to time delegate the functions required to be performed by this chapter. (Feb. 27, 1929, 45 Stat. 1340, ch. 352, § 50, as added, Sept. 14, 1961, 75 Stat. 519, Pub. L. 87–248, § 3.)

Chapter 2A.—HUMAN TISSUE BANKS

§ 2–251. Statement of policy and purpose.

Because of the rapid medical progress in the field of tissue preservation, tissue transplantation, and tissue culture, and because it is in the public interest to aid the development of this field of medicine, it is the policy and purpose of Congress in enacting this chapter and the amendments to sections 27–119a and 27–125 to encourage and aid the development of reconstructive medicine and surgery and the development of medico-surgical research by providing for the licensing and regulation of tissue banks, and by facilitating antemortem and postmortem authorizations for donations of tissue. (Sept. 10, 1962, 76 Stat. 534, Pub. L. 87–656, § 2.)

EFFECTIVE DATE

Section 14 of act Sept. 10, 1962, provides, "This Act [set out as Title 2, Chapter 2A, and sections 27–119a and 27–125] except section 4 [2–253] shall take effect upon approval. Section 4 [2–253] shall take effect 60 days after the Commissioners have initially promulgated regulations pursuant to such section."

POPULAR NAME

Act Sept. 10, 1962, provided that "This Act [set out as Title 2, Ch. 2A, and as amendments to sections 2–119a and 27–125] may be cited as the 'District of Columbia Tissue Bank Act' "

CROSS REFERENCES

For other applicable provisions relating to disposition of dead bodies, see §§ 2–201 to 2–209, and §§ 27–101 to 27–131.

§ 2–252. Definitions.

For the purposes of this chapter and sections 27–119a and 27–125, except where the context indicates a different meaning—

"Commissioners" means the Commissioners of the District of Columbia or their designated agent.

"Donor" means any person who, in accordance with the provisions of this chapter and sections 27–119a and 27–125, bequeaths or donates his tissue for removal after death in furtherance of the purposes of this chapter and section 27–119a and 27–125, and also means any deceased person whose tissue is donated or disposed of for the purpose of this chapter and sections 27–119a and 27–125.

"Tissue" means any portion of the body of a dead human.

"Tissue bank" means a facility for procuring, removing, and disposing of portions of bodies of dead humans for the purposes of reconstructive medicine and surgery, and research and teaching in reconstructive medicine and surgery. (Sept. 10, 1962, 76 Stat. 534, Pub. L. 87–656, § 3.)

EFFECTIVE DATE

See note to section 2–251.

§ 2–253. Tissue bank licenses and regulations.

(a) No person shall operate any tissue bank in the District of Columbia without a valid license issued pursuant to this chapter and sections 27–119a and 27–125. No such license shall be issued except to persons duly licensed or duly registered as physicans under the Healing Arts Practice Act of the District of Columbia or to persons holding valid licenses to operate and maintain hospitals for humans pursuant to the Act entitled "An Act to regulate the establishment and maintenance of private hospitals and asylums in the District of Columbia", approved April 20, 1908.

(b) The Commissioners are authorized, after public hearing, to adopt and promulgate rules and regulations prescribing, without limitation, (1) the terms and conditions under which a tissue bank license may be issued and renewed; (2) the fees to be paid for the issuance and renewal of such licenses; (3) the duration of such licenses; (4) the grounds for suspension and revocation of such licenses; (5) the operation of tissue banks; (6) the conditions under which tissue may be processed, preserved, stored, and transported; and (7) the making, keeping, and disposition of records by tissue banks or by other persons processing, preserving, storing, or transporting tissue.

(c) The Commissioners may, after notice and hearing, deny, suspend, or revoke any tissue bank license issued or applied for pursuant to this chapter and sections 27–119a and 27–125.

(d) Any person aggrieved by any final decision or final order of the Commissioners denying, suspending, or revoking any tissue bank license or renewal thereof, issued or applied for under this chapter and sections 27–119a and 27–125, may obtain a review of such decision or order in the municipal court of appeals for the District of Columbia, and may seek review by the United States Court of Appeals for the District of Columbia of any judgment of the municipal court of appeals entered pursuant to its review of any such decision or order, all in accordance with subsection (f) of section 11–772.

(e) Except with respect to the provisions as to licensing, the provisions of this chapter and sections 27–119a and 27–125, and the regulations made pursuant thereto, shall apply to Federal agencies situated in the District of Columbia, and to District of Columbia agencies. (Sept. 10, 1962, 76 Stat. 535, Pub. L. 87–656, § 4.)

REFERENCES IN TEXT

The Healing Arts Practice Act of the District of Columbia is set out as chapter 1 in Title 2 of the D.C. Code and the act to regulate the establishment and maintenance of private hospitals and asylums in the District of Columbia approved Apr. 20, 1908, is set out in sections 32–301 to 32–305.

CHANGE OF NAME

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions". See section 11–751a.

Act Oct. 23, 1962, section 6, eff. Jan. 1, 1963, changed the name of the Municipal Court of Appeals for the District of Columbia, to "District of Columbia Court of Appeals". See section 11–771a.

EFFECTIVE DATE

See note to section 2–251.

§ 2–254. Penalties.

Any person violating any provision of this chapter and the amendments to sections 27–119a and 27–125, or any regulation made pursuant to this chapter and the amendments to sections 27–119a and 27–125, shall be fined not more than $300, or be imprisoned for not more than ninety days. Prosecution for violations of this chapter and the amendments to sections 27–119a and 27–125 and regulations made pursuant thereto shall be brought in the name of the District of Columbia. (Sept. 10, 1962, 76 Stat. 535, Pub. L. 87–656, § 5.)

EFFECTIVE DATE

See note to section 2–251.

§ 2–255. Donation of tissue.

(a) Any person who, under the law of the District of Columbia, has capacity to make a valid will, may by will, codicil, or any written statement donate his tissue for the purposes of this chapter and sections 27–119a and 27–125. Any person who, in accordance with this chapter and sections 27–119a and 27–125, donates his tissue may, but shall not be required to, designate the purpose for which his tissue is to be used. Any physician or hospital validly operating a tissue bank shall have full authority to take the tissue so donated and use the same for the purposes enumerated in this chapter and section 27–119a and 27–125.

(b) No particular words shall be required for such person to donate his tissue, but any will, codicil, or written statement shall be liberally construed to effectuate the intent and purpose of the person desiring to donate his tissue for any purpose authorized by this chapter and sections 27–119a and 27–125. If, pursuant to this section or section 2–256, a person donates tissue by a written statement other than by a will or codicil, such statement shall be signed by him and be witnessed by two persons of legal age.

(c) A provision in any will, codicil, or written statement which donates tissue as provided by this chapter and sections 27–119a and 27–125 shall become effective immediately upon the death of the testator or donor, and shall constitute the authority for any physician or hospital validly operating a

tissue bank to remove said tissue. (Sept. 10, 1962, 76 Stat. 535, Pub. L. 87–656, § 6.)

EFFECTIVE DATE

See note to section 2–251.

§ 2–256. Tissue donations by those having right to body.

Any person having the right to a body for the purpose of burial may by a written statement donate any tissue from such body to any tissue bank, and in such written statement may designate the purpose or purposes for which such tissue is to be used. Such writing shall constitute full authority for the tissue bank to use such tissue for the purposes of this chapter and sections 27–119a and 27–125. (Sept. 10, 1962, 76 Stat. 536, Pub. L. 87–656, § 7.)

EFFECTIVE DATE

See note to section 2–251.

§ 2–257. Persons entitled to the body.

For the purposes of this chapter and the amendments to section 27–119a and 27–125, the order of priority in which persons are entitled to the body for burial and who may donate tissue therefrom shall be the following:

(a) The surviving spouse.

(b) If there be no surviving spouse, or if the surviving spouse is incompetent, unavailable, or does not claim the body for burial, then an adult child, a parent, an adult brother, or an adult sister of the decedent. Any one of such persons may make such donation: *Provided,* That tissue shall not be removed pursuant to a donation made by any one of such persons designated in this subsection if, before such tissue is removed, any one of such persons shall, in writing, notify the tissue bank which is to remove the tissue that he objects to such removal.

(c) Any person whom the deceased during his lifetime designated by written instrument to take charge of his body for burial.

(d) The person or agency who or which assumes custody of the body for burial, in any case in which the person designated as provided in paragraph (c) or all of the persons mentioned in paragraph (a) or (b) of this section have failed to claim the body. (Sept. 10, 1962, 76 Stat. 536, Pub. L. 87–656, § 8.)

EFFECTIVE DATE

See note to section 2–251.

§ 2–258. Office of the Coroner.

(a) The Commissioners are authorized to appoint such number of licensed physicians as they deem appropriate to perform such of the functions of the Coroner of the District of Columbia as the Commissioners shall prescribe. The Commissioners are authorized to fix the compensation of such physicians at a rate or rates not in excess of the per diem equivalent of the maximum rate for grade 18 of the General Schedule of the Classification Act of 1949, as amended. The Commissioners are further authorized, in their discretion, to accept the services of such physicians without compensation.

(b) The Coroner of the District of Columbia may, in his discretion, allow tissue to be removed from any dead human body in his custody or under his jurisdiction: *Provided,* That such tissue removal shall not interfere with other functions of the Office of the Coroner: *Provided further,* That the person who, in accordance with section 2–257, is entitled to the body for burial, shall first authorize such tissue removal. (Sept. 10, 1962, 76 Stat. 536, Pub. L. 87–656, § 9.)

REFERENCE IN TEXT

The Classification Act of 1949 is classified generally to Chapter 21, Title 5, U.S. Code.

EFFECTIVE DATE

See note to section 2–251.

CROSS REFERENCES

For other provisions relating to the Coroner, see sections 11–1201 to 11–1208 and 1 App., Reorg. Ord. No. 51.

§ 2–259. Exemption of licensed undertakers from act.

Nothing in this chapter and sections 27–119a and 27–125 shall be construed (1) to prohibit undertakers licensed pursuant to section 47–2344a from discharging their duties, or (2) to prohibit or affect in any way the authority, duties, rights, or obligations vested, imposed, or granted by the Act entitled "An Act for the promotion of anatomical science and to prevent the desecration of graves in the District of Columbia", approved April 29, 1902. (Sept. 10, 1962, 76 Stat. 537, Pub. L. 87–656, § 12.)

REFERENCE IN TEXT

The act for the promotion of anatomical science, etc., approved Apr. 29, 1902, is set out in Title 2, chapter 2, of the D.C. Code.

EFFECTIVE DATE

See note to section 2–251.

§ 2–260. Coordination of act with reorganization plan No. 5.

Nothing in this chapter and sections 27–119a and 27–125 shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this chapter and sections 27–119a and 27–125 in the Board of Commissioners or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan. (Sept. 10, 1962, 76 Stat. 537, Pub. L. 87–656, § 13.)

REFERENCE IN TEXT

Reorganization Plan No. 5 of 1952, referred to in text, is set out in the Appendix to Title I.

EFFECTIVE DATE

See note to section 2–251.

Chapter 4.—NURSES AND PHYSICAL THERAPISTS

SUBCHAPTER III.—PHYSICAL THERAPISTS

§ 2–425. Commissioners authorized to delegate functions.

TRANSFER OF FUNCTIONS

Reorganization Order No. 59 of the Board of Commissioners, dated June 30, 1953, as amended, established within the Department of Occupations and Professions, a Practical Nurses' Examining Board. There was delegated to said Examining Board the technical and professional functions vested in the Commissioners by sections 2–427 to 2–431 and section 2–433. The administrative functions authorized to be performed by such sections were delegated to the Director. The functions of adopting and prescribing rules and regulations were reserved to themselves by the Commissioners. The order is set out in the appendix to title 1.

SUBCHAPTER III.—PHYSICAL THERAPISTS

§ 2–451. Definitions.

As used in this subchapter—

(a) The term "Commissioners" means the Commissioners of the District of Columbia sitting as a board, or their authorized agent or agents.

(b) The word "she" and the derivatives thereof shall be construed to include the word "he" and the derivatives thereof.

(c) The term "physical therapy" means the treatment of human disability, injury, or disease by supervised therapeutic procedures embracing the specific scientific application of physical measures to secure the functional rehabilitation of the human body. Nothing in this subchapter shall be construed as authorizing a physical therapist, whether registered or not, to practice medicine, osteopathy, chiropractic, naturopathy, or any other form or method of healing.

(d) The term "physical therapist" means a person who practices physical therapy under the prescription, supervision, and direction of a person licensed to practice under the Healing Arts Practice Act of the District of Columbia, approved February 27, 1929 (45 Stat. 1326), as amended.

(e) The word "State" or "States" shall be deemed to include any territory of the United States and the Commonwealth of Puerto Rico. (Sept. 22, 1961, 75 Stat. 578, Pub. L. 87–280, § 2.)

REFERENCE IN TEXT

The Healing Arts Practice Act of the District of Columbia, referred to in the text, is set out in title 2, ch. 1, of the D.C. Code.

EFFECTIVE DATE

Subchapter effective 120 days after funds are appropriated for the purpose of administering this subchapter, see section 2–472.

SHORT TITLE

Section 1 of act Sept. 22, 1961, provided that: "This Act [this subchapter] may be cited as the 'Physical Therapists Practice Act' ".

§ 2–452. Exemption from registration.

This subchapter shall not apply to any person employed in the District of Columbia by the Federal Government or any agency thereof while such person is acting in the discharge of her official duties. (Sept. 22, 1961, 75 Stat. 578, Pub. L. 87–280, § 3.)

EFFECTIVE DATE

See section 2–472.

§ 2–453. Registration.

(a) No person shall practice physical therapy in the District of Columbia unless (1) she is duly registered in accordance with the provisions of this subchapter, or (2) is exempted from such registration by the terms of this subchapter.

(b) No person not registered in accordance with the provisions of this subchapter, unless exempted from registration by the terms of this subchapter, shall, directly or indirectly, (1) represent herself to be so registered or (2) represent herself to be certified, licensed, or authorized to practice physical therapy.

(c) No person shall use in connection with her name the words "physical therapist", "physiotherapist", "physical therapy technician", or use the initials "P.T.", "P.T.T.", "R.P.T.", or any other letters, words, abbreviations, or insignia indicating or implying that she is a registered physical therapist, unless such person is a holder of a valid registration under this subchapter.

(d) Nothing in this section shall prohibit any person duly licensed or registered in the District of Columbia under any other Act from engaging in the practice for which she is duly registered or licensed.

(e) Nothing in this subchapter shall apply to any person licensed under the Healing Arts Practice Act of the District of Columbia, nor to any employee of any such person working under his immediate supervision and direction in his private office, provided no such employee shall hold herself out, or otherwise represent herself to be a physical therapist. (Sept. 22, 1961, 75 Stat. 578, Pub. L. 87–280, § 4.)

REFERENCE IN TEXT

The Healing Arts Practice Act of the District of Columbia is set out in title 2, ch. 1, of the D.C. Code.

EFFECTIVE DATE

See section 2–472.

§ 2–454. Powers of Commissioners.

The Commissioners are hereby vested with full power and authority to delegate, from time to time, to their designated agent or agents, any of the functions vested in them by this subchapter. (Sept. 22, 1961, 75 Stat. 579, Pub. L. 87–280, § 5.)

EFFECTIVE DATE

See section 2–472.

§ 2–455. Establishment of board.

The Commissioners may establish a physical therapists examining board to perform any of the functions vested in the Commissioners by this subchapter, and, if so established, such board shall be composed of such persons possessing such qualifications as the Commissioners shall determine. The Commissioners are authorized to prescribe the terms of office of members of such board and to fix the

compensation of such members. The Commissioners may appoint as members of such board, Federal and District government employees, and such members shall not be entitled to receive compensation as board members, and any such member shall not be debarred by such membership from employment in the Federal or District governments not inconsistent with her duties as a board member. Any board member may receive her compensation as a board member as well as any retirement pay, retirement compensation, or annuity to which she may be entitled on account of previous service rendered to the United States or the District of Columbia governments. (Sept. 22, 1961, 75 Stat. 579, Pub. L. 87–280, § 6.)

EFFECTIVE DATE

See section 2–472.

§ 2–456. Powers and duties—Register of physical therapists and approved schools—Studies and investigations.

(a) The Commissioners are authorized to adopt from time to time and prescribe such rules and regulations as may be necessary to enable them to carry into effect the provisions of this subchapter. The Commissioners shall maintain a register of all persons registered as physical therapists. The Commissioners shall maintain a register of approved schools which they deem afford adequate training in physical therapy.

(b) The Commissioners may make such studies and investigations, and obtain or require the furnishing of such information under oath or affirmation or otherwise, as they deem necessary or proper to assist them in prescribing any regulation or order under this subchapter, or in the administration and enforcement of this subchapter, and regulations and orders thereunder. For such purposes, the Commissioners may administer oaths and affirmations, may require by subpena or otherwise the attendance and testimony of witnesses and the production of documents at any designated place. In the event of contumacy or refusal to obey any such subpena or requirement under this section, the Commissioners may make application to the municipal court for the District of Columbia for an order requiring obedience thereto. Thereupon the court, with or without notice and hearing, as it in its discretion may decide, shall make such order as is proper and may punish as a contempt any failure to comply with such order in accordance with the provisions of section 11–756(c). (Sept. 22, 1961, 75 Stat. 579, Pub. L. 87–280, § 7.)

CHANGE OF NAME

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions". See section 11–751a.

EFFECTIVE DATE

See section 2–472.

§ 2–457. Registration of qualified applicants—Issuance of certificates.

The Commissioners shall register as physical therapists all applicants who prove to the satisfaction of the Commissioners their fitness for registration under the terms of this subchapter. The Commissioners shall issue to each person registered a certificate of registration, which shall be prima facie evidence of the right of the person to whom it is issued to represent herself as a registered physical therapist, and authorized to practice as such under this subchapter. (Sept. 22, 1961, 75 Stat. 580, Pub. L. 87–280, § 8.)

EFFECTIVE DATE

See section 2–472.

§ 2–458. Registration without examination.

The Commissioners shall register as a physical therapist, without examination, any physical therapist who is at least twenty years of age and of good moral character and who presents evidence satisfactory to the Commissioners that she was, prior to the effective date of this subchapter, practicing physical therapy in the District of Columbia for a period of two years immediately preceding the effective date of this subchapter, and that she (1) has graduated from an approved school of physical therapy listed in the register of approved schools or (2) received comparable training or experience in the practice of physical therapy as determined by the Commissioners. Application for registration under this section shall be made on or before the expiration of one year from the effective date of this subchapter. (Sept. 22, 1961, 75 Stat. 580, Pub. L. 87–280, § 9.)

EFFECTIVE DATE

See section 2–472.

§ 2–459. Registration after examination.

The Commissioners shall pass upon the qualifications of applicants for registration, provide for and conduct all examinations, determine which applicants have successfully passed the examination and duly register such applicants. To be eligible to be examined for registration as a physical therapist, an applicant must meet the following requirements:

(a) Be at least twenty years old.

(b) Be of good moral character.

(c) Be in good physical and mental health, as certified by a physician licensed to practice in the District of Columbia.

(d) Be a graduate of an approved school of physical therapy listed in the register of approved schools; or possess comparable educational qualifications as determined by the Commissioners.

The examinations specified in this section shall be conducted at such times and places as the Commissioners may determine, and notice of time and place of such examination shall be published not less than thirty days before the first day of each examination in one or more newspapers of local circulation.

The examination shall embrace such coverage of the following subjects to determine the applicant's qualification: The applied sciences of anatomy, neuroanatomy, kinesiology, physiology, pathology, physics; "physical therapy" as defined in this subchapter, applied to medicine, neurology, orthopedics, pediatrics, psychiatry, surgery; medical ethics; technical procedures in the practice of "physical therapy" as defined in this subchapter. (Sept. 22, 1961, 75 Stat. 580, Pub. L. 87–280, § 10.)

EFFECTIVE DATE

See section 2–472.

§ 2–460. Reciprocity.

Any applicant who has practiced physical therapy and has been registered, certified, or licensed as such in any State may, upon proof of good moral character, be registered without examination, provided the applicant has graduated from a school of physical therapy approved by the Commissioners, or has received competent comparable training as determined by the Commissioners. It is intended that the standards of education and training required for registration under this section shall be substantially equivalent to those required for registration pursuant to section 2–459. This section shall be construed to apply only to candidates from States which admit registered physical therapists of the District of Columbia without examination. (Sept. 22, 1961, 75 Stat. 580, Pub. L. 87–280, § 11.)

EFFECTIVE DATE

See section 2–472.

§ 2–461. Renewal of registration—Nonpracticing therapists.

(a) Every registered physical therapist engaged in or who proposes to engage in the practice of physical therapy in the District of Columbia is hereby required to register with the Commissioners annually. Any registrant who allows her registration to lapse by failing to renew the registration annually may be reinstated by the Commissioners by showing cause satisfactory to the Commissioners for such failure and upon payment of all required fees. The Commissioners are authorized, after public hearing, to change from time to time the period for which registration or renewal thereof may be issued.

(b) Any person registered under the provisions of this subchapter but not so practicing in the District of Columbia shall give written notice of such fact to the Commissioners. Upon receipt of such notice, the Commissioners shall place the name of such person upon the nonpracticing list. While remaining on such list, such person shall not be subject to the payment of any renewal fee and shall not hold herself out as a registered physical therapist nor practice as such in the District of Columbia. Application for renewal of registration and payment of renewal fee for the current year shall be made to the Commissioners by any such person desiring to resume practice as a registered physical therapist. (Sept. 22, 1961, 75 Stat. 581, Pub. L. 87–280, § 12.)

EFFECTIVE DATE

See section 2–472.

§ 2–462. Denial, revocation, and suspension of registration.

The Commissioners are authorized and empowered to deny, revoke, or suspend any registration or certificate of renewal of registration issued by the Commissioners or applied for in accordance with the provisions of this subchapter if the applicant or holder thereof—

(1) has been guilty of fraud or deceit in procuring or attempting to procure any registration or renewal thereof provided for in this subchapter;

(2) has been convicted of a crime involving moral turpitude;

(3) is an intemperate consumer of intoxicating liquors or is addicted to the use of habit-forming drugs;

(4) has been guilty of unprofessional conduct;

(5) has willfully violated any of the provisions of this subchapter, or rules or regulations promulgated by the Commissioners pursuant to authority contained in this subchapter;

(6) is mentally incompetent;

(7) is guilty of undertaking to treat ailments of human beings other than by physical therapy as authorized by this subchapter, or the undertaking to practice physical therapy independent of the prescription and direction of a person appropriately licensed to practice under the Healing Arts Practice Act of the District of Columbia; or

(8) is otherwise professionally incapacitated.

Provided, That such denial, revocation, or suspension shall be made only upon specific charges in writing. A copy of any such charges and at least ten days' notice of the hearing of the same shall be mailed to the holder of or applicant for such registration, addressed to her at her last known address. (Sept. 22, 1961, 75 Stat. 581, Pub. L. 87–280, § 13.)

REFERENCE IN TEXT

The Healing Arts Practice Act of the District of Columbia referred to in text is set out in title 2, ch. 1, of the D.C. Code.

EFFECTIVE DATE

See section 2–472.

§ 2–463. Court review.

Any person aggrieved by any final decision or final order of the Commissioners denying, suspending, or revoking any registration, or renewal of registration, issued or applied for under this subchapter may obtain a review thereof in the municipal court of appeals for the District of Columbia, and may seek a review by the United States Court of Appeals for the District of Columbia Circuit of any judgment of the municipal court of appeals entered pursuant to its review of any such decision or order, all in accordance with subsection (f) of section 11–772. (Sept. 22, 1961, 75 Stat. 582, Pub. L. 87–280, § 14.)

CHANGE OF NAME

Act Oct. 23, 1962, section 6, eff. Jan. 1, 1963, changed the name of the Municipal Court of Appeals for the District of Columbia, to "District of Columbia Court of Appeals". See section 11–771a.

EFFECTIVE DATE

See section 2–472.

§ 2–464. Unauthorized practice of physical therapy.

It shall be unlawful for any person in the District of Columbia to—

(a) sell or fraudulently obtain or furnish any diploma, license, certificate of registration, or record required by this subchapter, or required by the Commissioners under authority of this subchapter, or aid or abet in the selling, fraudulently obtaining, or furnishing thereof;

(b) practice physical therapy under cover of any diploma, certificate of registration, or record required by this subchapter or required by the Commissioners under authority of this subchapter, illegally or fraudulently obtained or signed or

issued unlawfully or under fraudulent registration;

(c) use in connection with her name any designation tending to imply that she is a registered physical therapist unless duly registered under provisions of this subchapter;

(d) practice physical therapy during the time her registration shall be suspended or revoked. (Sept. 22, 1961, 75 Stat. 582, Pub. L. 87–280, § 15.)

Effective Date

See section 2–472.

§ 2–465. Practice of registered physical therapists.

A person registered under this subchapter as a physical therapist shall not treat human ailments by physical therapy or otherwise except under the prescription and direction of a person duly licensed or registered under the Healing Arts Practice Act of the District of Columbia. (Sept. 22, 1961, 75 Stat. 582, Pub. L. 87–280, § 16.)

Reference in Text

The Healing Arts Practice Act of the District of Columbia, is set out in title 2, ch. 1, of the D.C. Code.

Effective Date

See section 2–472.

§ 2–466. Enforcement—Penalties.

Any person who shall violate the provisions of section 2–453, 2–464, or 2–465 of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding $500 or by imprisonment for not more than one year, or both. (Sept. 22, 1961, 75 Stat. 582, Pub. L. 87–280, § 17.)

Effective Date

See section 472.

§ 2–467. Conduct of prosecutions.

(a) Prosecutions for violations of any provisions of section 2–453, 2–464, or 2–465 of this subchapter shall be conducted in the name of the District of Columbia in the municipal court for the District of Columbia, by the Corporation Counsel or any of his assistants.

(b) It shall be necessary to prove in any prosecution or hearing under this subchapter only a single act prohibited by law or a single holding out or an attempt without proving a general course of conduct in order to constitute a violation. (Sept. 22, 1961, 75 Stat. 582, Pub. L. 87–280, § 18.)

Change of Name

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions". See section 11–751a.

Effective Date

See section 2–472.

§ 2–468. Fees and charges—Public hearings to change fees.

(a) The Commissioners are authorized and empowered, after a public hearing, to fix and, from time to time increase or decrease, fees for any services rendered under this subchapter. The Commissioners shall, pursuant to this section, increase, decrease, or fix fees in such amounts as will, in the judgment of the Commissioners, approximate the costs to the District of Columbia of administering this subsection: *Provided,* That no fee shall be increased, decreased, or fixed except after a public hearing.

(b) Upon the change of a registration period as authorized by subsection (a) of section 2–461 the fee for registration or renewal of registration shall be prorated on the basis of the time covered.

(c) All moneys collected for fees and charges made pursuant to authority contained in this subchapter shall be paid into the Treasury to the credit of the District of Columbia. (Sept. 22, 1961, 75 Stat. 583, Pub. L. 87–280, § 19.)

Effective Date

See section 2–472.

§ 2–469. Severability.

If any provision of this subchapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the subchapter, and the application of such provision to other persons and circumstances, shall not be affected thereby. (Sept. 22, 1961, 75 Stat. 583, Pub. L. 87–280, § 20.)

Effective Date

See section 2–472.

§ 2–470. Appropriations.

There is hereby authorized to be appropriated out of the revenues of the District of Columbia such sums as may be necessary to pay the expenses of administering and carrying out the purposes of this subchapter. (Sept. 22, 1961, 75 Stat. 583, Pub. L. 87–280, § 21.)

Effective Date

See section 2–472.

§ 2–471. Reorganization.

Nothing in this subchapter shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this subchapter in the Board of Commissioners or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan. (Sept. 22, 1961, 75 Stat. 583, Pub. L. 87–280, § 22.)

Effective Date

See section 2–472.

§ 2–472. Effective date.

This subchapter shall take effect one hundred and twenty days after funds are appropriated for the purpose of administering the provisions of this subchapter. (Sept. 22, 1961, 75 Stat. 583, Pub. L. 87–280, § 23.)

Chapter 7.—PODIATRY

§ 2–717. Practicing without a license—Violation of law—Penalties.

NOTES TO DECISIONS

1. Judicial involvement

Court's lengthy interrogation of defendant charged with practicing podiatry without license did not exceed permissible limits of judicial involvement. *T. DeW. Baldwin* v. *District of Columbia* (D.C. Mun. App. 1962, 183 A. 2d 566).

2. Purpose of statute

Podiatry statute was enacted to protect public by assuring that those who hold themselves out as podiatrists have attained specified level of professional competence and one who fails to submit himself to scrutiny of Board of Podiatry Examiners must be considered unfit to practice podiatry, regardless of his claimed qualifications. *T. DeW. Baldwin* v. *District of Columbia* (D.C. Mun. App. 1962, 183 A. 2d 566).

3. Separate prosecutions

District of Columbia's healing arts practice statute permits separate prosecution of isolated acts of treatment. *T. DeW. Baldwin* v. *District of Columbia* (D.C. Mun. App. 1962, 183 A. 2d 566).

Each act of treatment by one practicing podiatry without license may be prosecuted as separate offense. *Id.*

Chapter 18.—PROFESSIONAL ENGINEERS

§ 2–1810. Exemptions.

NOTES TO DECISIONS

1. Burden of proving exception

Fact that Professional Engineers' Registration Act excepts from its provisions practice of any other legally recognized profession did not require that information allege and that prosecution prove that defendant was not within exception, and defendant had burden of proving that it was within exception. *T.V. Engineers, Inc.* v. *District of Columbia* (D.C. Mun. App. 1961, 166 A. 2d 920).

2. Practice of engineering by corporation

Corporation could be convicted under provision of Professional Engineers' Registration Act making it misdemeanor for anyone to represent himself to be professional engineer without being registered as provided in the act, though only natural person may be registered under act. *T.V. Engineers, Inc.* v. *District of Columbia* (D.C. Mun. App. 1961, 166 A. 2d 920).

§ 2–1814. Penalties.

NOTES TO DECISIONS

1. Burden of proving exception

Fact that Professional Engineers' Registration Act excepts from its provisions practice of any other legally recognized profession did not require that information allege and that prosecution prove that defendant was not within exception, and defendant had burden of proving that it was within exception. *T.V. Engineers, Inc.*, v. *District of Columbia* (D.C. Mun. App. 1961. 166 A. 2d 920).

2. Practice of engineering by corporation

Corporation could be convicted under provision of Professional Engineers' Registration Act making it misdemeanor for anyone to represent himself to be professional engineer without being registered as provided in the act, though only natural person may be registered under act. *T.V. Engineers, Inc.*, v. *District of Columbia* (D.C. Mun. App. 1961, 166 A. 2d 920).

3. Violation question of fact

Question whether use of name "T.V. Engineers Inc.," by corporation which employed no professional engineers, violated provision of Professional Engineers' Registration Act making it misdemeanor for anyone to represent himself to be professional engineer without being registered, was factual determination for trial court. *T.V. Engineers, Inc.* v. *District of Columbia* (D.C. Mun. App. 1961. 166 A. 2d 920).

TITLE 3.—BOARD OF PUBLIC WELFARE

Chapter 2.—PUBLIC ASSISTANCE

§ 3–201. Definitions.

As used in this chapter, the word "District" means the District of Columbia; the word "Commissioners" means the Commissioners of the District of Columbia or the agents, agencies, officers, and employees designated by them to perform any function vested in them by this chapter; the term "public assistance" means payment in or by money, medical care, remedial care, goods or services to, or for the benefit of, needy persons; the word "recipient" means a person to whom or on whose behalf public assistance is granted and the word "State" includes Puerto Rico, Guam, and the Virgin Islands. (Oct. 15, 1962, 76 Stat. 914, Pub. L. 87–807, § 2.)

EFFECTIVE DATE

Section 27 of act Oct. 15, 1962, provides as follows: "Except as otherwise provided [see § 3–204] in this Act, [this chapter] the provisions of this Act [this chapter] shall take effect on the first day of the second month following the date of enactment."

REPEAL

Section 24 of act Oct. 15, 1962, repealed chapters 1 and 2 of Title 46, and chapter 7A of Title 32.

EFFECT ON REORGANIZATION PLAN NO. 5

Act Oct. 15, 1962, provides as follows: "This Act [this chapter] shall not be considered as affecting the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824), and the performance of any function vested by said plan in the Board of Commissioners or in any office or agency under the jurisdiction and control of said Board of Commissioners shall continue to be subject to delegation by said Board of Commissioners in accordance with section 3 of such plan. Any function vested by this Act [this chapter] in any agency established pursuant to such plan shall be deemed to be vested in said Board of Commissioners and shall be subject to delegation in accordance with such plan."

POPULAR NAME

Section 1 of act Oct. 15, 1962, provided: "That this Act [this chapter] may be cited as the 'District of Columbia Assistance Act of 1962'."

§ 3–202. Categories and administrations of public assistance.

(a) The following categories of public assistance are hereby established:

(1) Old Age Assistance;

(2) Aid to the Blind;

(3) Aid to the Disabled;

(4) Aid to Dependent Children;

(5) General Public Assistance.

(b) This chapter shall be administered by the Commissioners who shall—

(1) provide for maximum cooperation with other agencies rendering services to maintain and strengthen family life and to help applicants for public assistance and recipients to attain self-support or self-care;

(2) establish and enforce such rules and regulations as may be necessary or desirable to carry out the provisions of this chapter;

(3) cooperate in all necessary respects with agencies of the United States Government in the administration of this chapter, and accept any funds, goods, or services payable to the District for public assistance and for administering public assistance;

(4) enter into reciprocal agreements with any State relative to the provision of public assistance to residents and nonresidents.

(Oct. 15, 1962, 76 Stat. 914, Pub. L. 87–807, § 3.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–203. Eligibility for public assistance.

Public assistance shall be awarded to or on behalf of any needy individual who either (a) has resided in the District for one year immediately preceding the date of filing his application for such assistance; or (b) who was born within one year immediately preceding the application for such aid, if the parent or other relative with whom the child is living has resided in the District for one year immediately preceding the birth; or (c) is otherwise within one of the categories of public assistance established by this chapter: *Provided,* That no persons shall be eligible for old-age assistance established by category number 1, subsection (a) of section 3 of this chapter, unless he has resided in the District for five years or more within the nine years immediately preceding application for such assistance, and who has resided continuously therein for one

year immediately preceding the said application. (Oct. 15, 1962, 76 Stat. 914, Pub. L. 87–807, § 4.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–204. Amount of public assistance.

(a) The amount of public assistance which any person shall receive shall be determined in accordance with regulations approved by the Commissioners.

(b) Such amount as referred to in subsection (a) of this section shall not be less than the full amount determined as necessary on the basis of the minimum needs of such person as established in accordance with such regulations.

(c) The provisions of subsection (b) of this section shall become effective upon enactment. (Oct. 15, 1962, 76 Stat. 915, Pub. L. 87–807, § 5.)

EFFECTIVE DATE

Subsection (b) of this section became effective on Oct. 15, 1962. For effective date of the remainder of chapter see note to section 3–201.

§ 3–205. Application for public assistance.

Application for public assistance shall be accepted from, or on behalf of, any person who believes himself eligible for public assistance. Such application shall be made in the manner and form prescribed by the Commissioners, and shall contain such information as the Commissioners shall require. (Oct. 15, 1962, 76 Stat. 915, Pub. L. 87–807, § 6.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–206. Investigation of applicant.

Whenever the Commissioners shall receive an application for public assistance, they shall promptly make an investigation and record of the circumstances of the applicant in order to ascertain the facts supporting the application and to obtain such other information as they may require. (Oct. 15, 1962, 76 Stat. 915, Pub. L. 87–807, § 7.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–207. Award and payment of public assistance.

(a) Upon completion of the investigation, the Commissioners shall determine whether the applicant is eligible for public assistance, the type and amount of public assistance for which he is eligible, and the date from which such public assistance shall begin, and shall furnish public assistance with reasonable promptness to all eligible persons: *Provided,* That such date shall not be prior to the first day of the calendar month in which such determination is made, except that as a result of reconsideration or review of a case, and in order to correct previous erroneous administrative action such as undue delay or improper denial of assistance, an initial payment of public assistance may be made for a period beginning prior to the first day of the calendar month in which the eligibility determination is made.

(b) Money payments of public assistance shall be made by check, except that in emergency cases under section 3–203, money payments of public assistance may be made in cash, and to accomplish such purpose the Commissioners are authorized to make necessary provisions for advancing from time to time to one or more officers or employees of the District such sum or sums as the Commissioners may determine: *Provided,* That no such advance shall be made to any such officer or employee who has not been previously bonded in such amount and form as the Commissioners shall determine. (Oct. 15, 1962, 76 Stat. 915, Pub. L. 87–807, § 8.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–208. Recipient incapacitated.

Whenever a recipient has been found by the Commissioners to be incapable of taking care of himself, his property, or his money, and a person has been judicially appointed as legal representative, or a responsible person has been appointed by the Commissioners, on behalf of such incapacitated individual for the purpose of receiving and managing such individual's public assistance payments (whether or not he is such individual's legal representative for other purposes), public assistance payments may be made on behalf of such individual to such judicially appointed legal representative, or to such responsible person appointed by the Commissioners. (Oct. 15, 1962, 76 Stat. 916, Pub. L. 87–807, § 9.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–209. Emergency public assistance.

The Commissioners may grant emergency public assistance pending completion of investigation when eligibility has been established pursuant to section 3–203: *Provided,* That such emergency assistance shall not be granted in any case for a period exceeding thirty days. (Oct. 15, 1962, 76 Stat. 916, Pub. L. 87–807, § 10.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–210. Redetermination of grants.

All public assistance grants made under this chapter shall be reconsidered by the Commissioners as frequently as they may deem necessary, but in every case the Commissioners shall make such reconsiderations at least once in each year. After such further investigation as the Commissioners may deem necessary, the amount of public assistance may be changed, or may be entirely withdrawn, if the Commissioners find that any such grant has been made erroneously, or if they find that the recipient's circumstances have altered sufficiently to warrant such action. If at any time during the continuance of public assistance the recipient thereof becomes possessed of income or resources in excess of the amount previously reported by him, or if other changes should occur in the circumstances previously reported by him which would alter either his need or his eligibility, it shall be his duty to notify the Commissioners of such fact immediately on the receipt or possession of such additional income or resources, or on the change of circumstances. (Oct. 15, 1962, 76 Stat. 916, Pub. L. 87–807, § 11.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–211. Records.

(a) The Commissioners are directed to prescribe regulations governing the custody, use, and preservation of the records, papers, files, and communications of the Commissioners relating to public assistance. Except as herein otherwise provided, such regulations shall provide safeguards restricting the use or disclosure of information concerning applicants for, or recipients of, public assistance to purposes directly connected with the administration of public assistance. The Commissioners are authorized in their discretion to include in such regulations provision for the public to have access to the records of disbursement or payment of public assistance made after the effective date of this chapter.

(b) No person who obtains information by virtue of any regulation made pursuant to subsection (a) of this section shall use such information for commercial or political purposes.

(c) This section and section 3–212 shall be construed as State legislation conforming to the requirements of section 618 of the Revenue Act of 1951 (Public Law 183, Eighty-second Congress). (Oct. 15, 1962, 76 Stat. 916, Pub. L. 87–807, § 12.)

Reference in Text

Section 618 of the Revenue Act of 1951 referred to in text is set out as a note to section 302 of Title 42, U.S. Code.

Effective Date

See note to sections 3–201 and 3–204.

§ 3–212. Penalties.

Any person violating subsection (b) of section 3–211 shall be punished by a fine of not more than $500, or by imprisonment of not more than ninety days, or by both such fine and imprisonment. Prosecutions for such violations and for violations of section 3–216(a) shall be brought to the municipal court for the District of Columbia by the Corporation Counsel or any of his assistants. (Oct. 15, 1962, 76 Stat. 917, Pub. L. 87–807, § 13.)

Change of Name

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions". See section 11–751a.

Effective Date

See note to sections 3–201 and 3–204.

§ 3–213. Funeral expenses.

On the death of a recipient, reasonable funeral expenses may be paid, subject to rules and regulations approved by the Commissioners. (Oct. 15, 1962, 76 Stat. 917, Pub. L. 87–807, § 14.)

§ 3–214. Hearings.

An applicant for, or recipient of, public assistance aggrieved by the action or inaction of the Commissioners shall be entitled to a hearing. Each applicant or recipient shall be notified of his rights to a hearing. Upon request for such hearing, reasonable notice of the time and place thereof shall be given to such applicant or recipient. Such hearing shall be conducted in accordance with rules and regulations prescribed by the Commissioners. The findings of the Commissioners on any appeal shall be final. (Oct. 15, 1962, 76 Stat. 917, Pub. L. 87–807, § 15.)

Effective Date

See note to sections 3–201 and 3–204.

§ 3–215. Public assistance not assignable.

Public assistance awarded under this chapter shall not be transferable or assignable at law or in equity, and none of the money paid or payable to any recipient under this chapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. (Oct. 15, 1962, 76 Stat. 917, Pub. L. 87–807, § 16.)

Effective Date

See note to sections 3–201 and 3–204.

§ 3–216. Fraud in obtaining public assistance—Repayment.

(a) Any person who by means of false statement, failure to disclose information, or impersonation, or by other fraudulent device obtains or attempts to obtain or any person who knowingly aids or abets such person in the obtaining or attempting to obtain, (1) any grant or payment of public assistance to which he is not entitled; (2) a larger amount of public assistance than that to which he is entitled; or (3) payment of any forfeited grant of public assistance; or any person who with intent to defraud the District aids or abets in the buying or in any way disposing of the real property of a recipient of public assistance, shall be guilty of a misdemeanor and shall be sentenced to pay a fine of not more than $500, or imprisoned not to exceed one year, or both.

(b) Any person who obtains any payment of public assistance to which he is not entitled, or in excess of that to which he is entitled shall be liable to repay such sum, or if continued on assistance, shall have future grants proportionately reduced until the excess amount received has been repaid. In any case in which, under this section, a person is liable to repay any sum, such sum may be collected without interest by civil action brought in the name of the District. Any repayment required by this subsection may, in the discretion of the Commissioners, be waived in whole or in part, upon a finding by the Commissioners that such repayment would deprive such person, his spouse, parent, or child of shelter or subsistence needed to enable such person, spouse, parent, or child to maintain a minimum standard of health and well-being. (Oct. 15, 1962, 76 Stat. 917, Pub. L. 87–807, § 17.)

Effective Date

See note to sections 3–201 and 3–204.

§ 3–217. Property—District's claim against estate of recipient.

(a) At the death of any person who has received public assistance in the form of old-age assistance, or aid to the disabled pursuant to the provisions of this chapter, or of any Act repealed by this chapter, the District shall have a preferred claim for the amount of any such public assistance against the estate of the deceased recipient. Notwithstanding the provisions of any other law, no statute of limitations shall be deemed applicable as a defense to any claim of the District made pursuant to this section. The Commissioners are authorized to waive

any such claim when in their judgment they deem it appropriate to do so.

(b) In addition to the remedy provided by subsection (a) of this section, or by any other provision of law, the Commissioners may file a notice in the office of the Recorder of Deeds in any case where public assistance in the form of old-age assistance or aid to the disabled is granted to any person under this chapter, and such notice shall constitute and have the effect of a lien in favor of the District against the real and personal property of such person for the amount of such public assistance which theretofore has been granted or which may thereafter be granted to, or on behalf of, such persons. Any such lien may be enforced by a proceeding filed in the United States District Court for the District of Columbia. The Commissioners shall file in the office of the Recorder of Deeds a release of any such real and personal property from the effect of such lien whenever there has been repaid to the District the amount of the public assistance theretofore granted to, or on behalf of, such person. The Commissioners are also authorized to release any such lien when in their judgment they deem it appropriate to do so. Such notices and releases may be filed without payment of fees.

(c) If the District collects from any recipient of public assistance in the form of old-age assistance or aid to the disabled or from his estate, or otherwise, any amount with respect to public assistance furnished him under this chapter, or under any Act repealed by this chapter the pro rata share to which the United States is equitably entitled shall be paid to the United States in accordance with the provisions of the Social Security Act, as amended (42 U.S.C. 303, 603, 1203, 1353). The pro rata share due the District shall be deposited as miscellaneous receipts to the credit of the District. (Oct. 15, 1962, 76 Stat. 918, Pub. L. 87–807, § 18.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–218. Responsible relatives.

(a) The husband, wife, father, mother, or adult child of a recipient of public assistance, or of a person in need thereof, shall, according to his ability to pay, be responsible for the support of such person. Any such recipient of public assistance or person in need thereof or the Commissioners may bring an action to require such husband, wife, father, mother, or adult child to provide such support and the court shall have the power to make orders requiring such husband, wife, father, mother, or adult child to pay to such recipient of public assistance or to such person in need thereof such sum or sums of money in such installments as the court in its discretion may direct and such orders may be enforced in the same manner as orders for alimony.

(b) The Commissioners shall be empowered on behalf of the District to sue such husband, wife, father, mother, or adult child for the amount of public assistance granted under this chapter or under any Act repealed by this chapter to such recipient or for so much thereof as such husband, wife, father, mother, or adult child is reasonably able to pay.

(c) All suits, actions, and court proceedings under this section shall be brought in the domestic relations branch of the municipal court for the District of Columbia. To the extent applicable, the provisions of sections 11–758 to 11–770 shall be followed in suits, actions, and proceedings brought pursuant to this section. (Oct. 15, 1962, 76 Stat. 918, Pub. L. 87–807, § 19.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

CHANGE OF NAME

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions". See section 11–751a.

§ 3–219. Payment of expenses.

All necessary expenses incurred by the District in carrying out the provisions of this chapter shall be disbursed in the same manner as other expenses of the District are disbursed. (Oct. 15, 1962, 76 Stat. 919, Pub. L. 87–807, § 20.)

§ 3–220. Delegation of authority.

The Commissioners are authorized to make provisions for delegation and subdelegation of any function vested in them by this chapter to any agency, officer, or employee of the District. (Oct. 15, 1962, 76 Stat. 919, Pub. L. 87–807, § 21.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–221. Voluntary services.

The Commissioners are authorized to accept voluntary services in administering the provisions of this chapter. Such voluntary services shall not create any obligation against the District. (Oct. 15, 1962, 76 Stat. 919, Pub. L. 87–807, § 22.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–222. Appropriations.

(a) The Commissioners shall include in their annual estimates of appropriations such sums as may be needed to carry out the provisions of this chapter.

(b) Unobligated balances of appropriations for the Department of Public Welfare are hereby made available for the purposes of this chapter. (Oct. 15, 1962, 76 Stat. 919, Pub. L. 87–807, § 23.)

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

§ 3–223. Validity.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Oct. 15, 1962, 76 Stat. 920, Pub. L. 87–807, § 26.)

TITLE 4.—POLICE AND FIRE DEPARTMENTS

Chapter 1.—METROPOLITAN POLICE

§ 4–106. Classification of officers and privates of police department—Duties of each.

* * * The Metropolitan Police force shall consist of not less than three thousand officers and members, in addition to the persons appointed as surgeons for the Metropolitan Police force, appointed as police matrons, or appointed as special privates pursuant to section 4–133, and in addition to any retired officer or member of the Metropolitan Police force called back into service pursuant to section 4–514. (May 9, 1956, 70 Stat. 148, ch. 243, § 1; June 27, 1961, 75 Stat. 121, Pub. L. 87–60, § 1.)

REFERENCES IN TEXT

Section 4–514 now covered by section 4–528. See note to section in main volume.

AMENDMENT

1961—Act June 27, 1961, Pub. L. 87–60, struck out the words "two thousand five hundred officers and members" in the last sentence and inserted in lieu thereof the words "three thousand officers and members".

§ 4–124. Police surgeons—Qualifications—Duties.

Police surgeons shall have actually and bona fide resided in the District of Columbia for at least two years next preceding the date of their appointment and shall be duly qualified according to law for the practice of medicine and surgery in said District and shall have actively been engaged in the practice of their profession for a period of at least three years next preceding the date of their appointment. Such police surgeons shall be subject to such laws, rules, and regulations as the Commissioners of the District of Columbia may from time to time make, alter, or amend. Such police surgeons shall attend, without charge, all members of said police force and of the fire department of said District for any injury received or disease contracted (whether or not received or contracted in the performance of duty), examine applicants for appointment and retirement in and to said police force and said fire department, and attend such dependent sick and injured, and examine and attend such insane or alleged insane persons as may be taken in charge by said police, and shall perform such other duties as the said commissioners may direct. (Feb. 28, 1901, 31 Stat. 819, ch. 623, § 1; June 8, 1906, 34 Stat. 222, ch. 3056, par. 7; Sept. 27, 1962, 76 Stat. 635, Pub. L. 87–708, § 1.)

AMENDMENTS

1962—Act of Sept. 27, 1962, amended the third sentence of this section by adding after the words "fire department of said District" the clause, "for any injury received or disease contracted (whether or not received or contracted in the performance of duty)".

§ 4–140. Arrests without warrant.

NOTES TO DECISIONS

3. Arrest without warrant

Court in prosecution for unlawful entry was not required to inquire into legality or illegality of defendant's arrest, where no evidence was obtained as result of arrest. *L. E. Smith* v. *United States* (D.C. Mun. App. 1961, 173 A. 2d 739).

§ 4–156. Return of property by property clerk—Two or more claimants—Liability of property clerk—Property needed as evidence—Storage fees—Disposal after thirty days notice to owner.

* * * * *

(e) Whenever the owner of property in the custody of the property clerk has been notified by the property clerk, by registered or certified mail, to take possession of such property within thirty days after the date of mailing of such notification, and such owner fails so to do within such period, such property shall be thereafter treated as other unclaimed, abandoned, or lost property and shall be disposed of as provided in section 4–160: *Provided,* That if, in the opinion of the property clerk, such property has no salable value, and if within thirty days after the date of mailing such notification such property is not reclaimed by its owner and removed by him from the custody of the property clerk, such property shall be disposed of by destruction or otherwise, as the Commissioners of the District of Columbia by regulation or order shall provide. (Sept. 25, 1962, 76 Stat. 589, Pub. L. 87–691, § 1.)

AMENDMENTS

1962—Section 1 of act Sept. 25, 1962, amended section by adding subsection (e) thereto.

AFFECT ON REORGANIZATION PLAN NUMBERED 5, OF 1962

Section 6 of act Sept. 25, 1962 [amending this section and sections 4–159, 4–160, repealing last sentence of section 4–156, repealing section 4–156a, and enacting section 4–160a], provides as follows: "Nothing in this Act shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this Act in the Board of Commissioners or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan."

90003 O—63——4

REPEAL

Section 3 of act Sept. 25, 1962, 76 Stat. 591, Pub. L. 87–691, repealed subsections (a), (b) and (c) of section 306, act June 29, 1953, 67 Stat. 101, ch. 159. Subsection (a) was set out as the last sentence of subsection (d) of section 4–156 [see main volume of Code]. Subsections (b) and (c) were set out as section 4–156a. These subsections dealt with collections of fees by property clerk and matter is now covered by section 4–159.

§ 4–156a. Repealed. Sept. 25, 1962, 76 Stat. 691, Pub. L. 87–691, § 3.

Section of act June 29, 1953, 67 Stat. 101, ch. 159, §§ 306 (b) and (c) dealt with collection of fees on impounded vehicles and deposit of collected fees in U.S. Treasury. Matter is now covered by section 4–159.

§ 4–159. Property coming into possession of police to be transmitted to property clerk—Disposition of property of deceased and incompetent persons—Storage of property—Fees for storage and custody of property—Sale of stored property—Deposit of collected fees.

(a) All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds of crime, and for which there is no other claimant than the person from whom such property was taken, and all lost property coming into possession of any member of the police force, and all property and money taken from pawnbrokers as the proceeds of crime or from persons alleged to be insane, intoxicated, or otherwise incapable of taking care of themselves, shall be transmitted as soon as practicable to the property clerk to be fully registered and advertised for the benefit of all parties interested, and for the information of the public as to the amount and disposition of the property so taken into custody by the police.

(b)(1) Whenever any money or property of a deceased person of a value of less than $1,000 coming into the custody of the property clerk shall remain in his custody for a period of six months or more without being claimed and repossessed by the next of kin or the legal representative of such deceased person, such money or property shall be disposed of as lost or abandoned property as provided in section 4–160 of this chapter: *Provided,* That prior to the disposition of such property of a deceased person it shall be the duty of the property clerk to ascertain whether there is pending in the United States District Court for the District of Columbia any petition seeking the appointment of a legal representative of such deceased person, and, if such a petition is pending in such court, the property clerk shall not dispose of such property until final disposition by the court of such petition: *Provided further,* That in any case where the property clerk acquires actual knowledge that a petition for the appointment of a legal representative of such deceased person has been filed or is pending in a court outside of the District of Columbia, the property clerk shall not dispose of such property until final disposition by the court of such petition.

(b)(2) Whenever any money or property of a deceased person shall be of a value of $1,000 or more and shall have remained in the custody of the property clerk for at least six months, all records pertaining to the same shall be referred by the property clerk to the Corporation Counsel of the District of Columbia for the purpose of instituting appropriate proceedings to effect the appointment of an administrator of the estate of such decedent: *Provided,* That upon expiration of the time for final settlement of such estate under law then in effect, the residue thereof in the absence of any claim by the heirs-at-law or next of kin of the decedent, as provided by law, shall be deposited into the Registry of the Probate Court, and upon the expiration of a period of three years, no demand having been made upon such funds by lawful heirs or other rightful claimants, the amount so deposited in such registry shall be deposited in the Treasury to the credit of the District of Columbia: *Provided further,* That if the administrator does not take possession of such property within three months from the date of his appointment, the property clerk may, after giving such administrator thirty days' notice by registered or certified mail, sell such property at public auction, and, after deducting the expenses of such sale, and expense incident to the maintenance of custody of such property, shall pay the remaining proceeds of such sale over to such administrator.

(c) Whenever the property clerk has custody of any property belonging to any person who has been adjudged of unsound mind and a committee has been appointed for such person but fails to take possession of the property of such person in the custody of the property clerk within six months from the date of such committee's appointment, the property clerk shall give such committee sixty days' notice by registered or certified mail of his intention to sell such property at public auction or otherwise dispose of such property in accordance with law. If, upon the expiration of such sixty days' notice, the committee has not taken custody of such property, (a) the property clerk is authorized to sell such property at public auction, and, after deducting the expenses of the sale, expenses incident to the maintenance and custody of such property, and any amounts due the District of Columbia for care and maintenance of the adjudicated patient, shall pay the remaining proceeds of the sale over to such committee, or (b) if in the opinion of the property clerk any such property has no salable value, he is authorized to dispose of such property by destruction or otherwise as the Commissioners of the District of Columbia shall, by regulation or order, determine.

(d)(1) The said Commissioners are authorized, in their discretion, to store in any commercial warehouse or garage in the District of Columbia, or in or on any facility under the jurisdiction of the District of Columbia, any property coming into the custody of the property clerk pursuant to this chapter, including vehicles impounded by any officer or member of the Metropolitan Police force.

(2) The Commissioners are authorized to fix, by regulation, the fees to be charged to reimburse the District of Columbia for the cost of services rendered by the Metropolitan Police force in taking custody of and protecting such property and for the cost of storing such property in any commercial warehouse or garage, and whenever any such property is stored in or on any facility under the jurisdiction of the District of Columbia, the Commissioners shall fix the storage fee in an amount reasonably estimated by them to be the value of the storage service

rendered for each day during which such property is so stored, and to collect all such fees due and owing for such property before releasing such property to its owner or his legal representative: *Provided,* That the Commissioners are authorized, in their discretion, to waive the charging and collecting of such fees for property taken into custody as evidence, the proceeds of crime, or from persons supposed to be insane: *Provided further,* That the property clerk is authorized to sell at public auction pursuant to subsection (a) of section 4–160 of this chapter any property stored in a commercial garage or warehouse, when the storage charges for such property exceed 75 per centum of its value as determined by the property clerk, regardless of the amount of time for which such property is required by other sections of this chapter to be held by the property clerk.

(3) Fees collected by reason of this section shall be deposited in the Treasury to the credit of the District of Columbia. (R.S., D.C. § 416, May 29, 1896, 29 Stat. 191, ch. 270; Mar. 3, 1901, 31 Stat. 1208, ch. 854, § 116; Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12; Mar. 3, 1936, 49 Stat. 1158, ch. 121, § 1; Sept. 25, 1962, 76 Stat. 589, Pub. L. 87–691, § 2.)

AMENDMENTS

1962—Section 2 of act Sept. 25, 1962, amended section generally. For text of section prior to this amendment see main volume of the Code.

§ 4–160. Sales at public auction—Procedure—Sales of motor vehicles with liens of record—Notice to lienors and lienees—Abandonment of liens—Notice to Recorder of Deeds—Application of proceeds of sale—Deposit of moneys in Treasury—Moneys and other property of insane persons excepted.

(a) All property, except perishable property and animals and property of insane persons, not otherwise disposed of in accordance with section 4–159 of this chapter, that shall remain in the custody of the property clerk for not less than ninety days, except motor vehicles which shall be held for not less than sixty days, without being claimed and repossessed, shall, after having been three times advertised in a daily newspaper of general circulation published in the District of Columbia, be sold at public auction, and the proceeds of such sale, after deducting the expenses of the sale, and all other expenses incident to such custody, having been retained by the said property clerk for a period of at least ninety days without being claimed and repossessed, shall be deposited in the Treasury to the credit of the District of Columbia: *Provided,* That if in the opinion of the property clerk any such property has no salable value, he is authorized to dispose of such property by destruction or otherwise as the Commissioners of the District of Columbia shall, by order or regulation, determine.

(b) Whenever the property clerk shall have in his custody any motor vehicle upon which there is a lien or liens of record in the Office of the Recorder of Deeds of the District of Columbia he shall, prior to the sale thereof pursuant to this section, notify by registered or certified mail each lienor and lienee in any such case of such custody and impending sale, and if such lienor or lienee fail to remove such property from the custody of the property clerk within thirty days from the date of the mailing of such notification, such lien or liens shall be considered to have been abandoned, and shall be thenceforth null and void. Upon being notified in writing of such fact by the property clerk, the Recorder of Deeds of the District of Columbia is authorized to indicate on his records that such lien or liens are thenceforth null and void and the property clerk is authorized to sell any such motor vehicle at public auction free and clear of such lien or liens; except that the proceeds of such sale shall be available, first, for the payment of all expenses incident to such sale and custody; second, for the payment of such liens so declared null and void; third, for payment to the owner in accordance with subsection (a) of this section; and the remainder, if any, shall be deposited in the Treasury of the United States to the credit of the District of Columbia.

(c) All money, except money of insane persons, that shall remain in the custody of the property clerk for six months shall be so advertised, and if not claimed and repossessed within thirty days, it shall likewise be deposited in the Treasury to the credit of the District of Columbia. (R.S., D.C., § 417; Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12; Mar. 3, 1936, 49 Stat. 1158, ch. 121, § 2; Sept. 25, 1962, 76 Stat. 591, Pub. L. 87–691, § 4.)

AMENDMENTS

1962—Section 4 of act Sept. 25, 1962, amended section generally. For provisions of section prior to this amendment see main volume of the Code.

§ 4–160a. Liability of district government, its officers or employees for damages to property—Net proceeds of judgment in favor of government against warehouseman and garagekeeper for damage to property to be paid to owner—"Gross negligence" defined.

Neither the government of the District of Columbia nor any officer or employee thereof shall be liable for damage to any property resulting from the removal of such property from public space, or the transportation of such property into the custody of the property clerk, Metropolitan Police Department, nor for damage to any such property while such property is in the custody of the property clerk, Metropolitan Police Department, when such custody is maintained pursuant to the requirements of law, except that the government of the District of Columbia or any such officer or employee may be liable for damage to such property as a result of gross negligence in the removal, transportation, or storage of such property: *Provided,* That should a judgment be entered for the District of Columbia against any commercial warehouseman or garagekeeper for damage to such property in his care, recovery on such judgment, less all administrative expenses and court costs to the District of Columbia involved in such litigation, shall be paid by the District of Columbia to the owner of the damaged property as determined by the property clerk. For the purpose of this section the term "gross negligence" means a willful intent to injure property, or a reckless or wanton disregard of the rights of another in his property. (Sept. 25, 1962, 76 Stat. 591, Pub. L. 87–691, § 5.)

Chapter 4.—FIRE DEPARTMENT

§ 4–404a. Workweek established—Hours—Days off—Holidays—Exceptions.

(a) (1) Beginning with the first day of the first pay period which begins not less than one hundred and twenty days after enactment of this amendatory subsection or which begins on or after July 1, 1962, whichever is later, the Commissioners of the District of Columbia are authorized and directed to establish a workweek for officers and members of the Firefighting Division of the Fire Department of the District of Columbia which will result in an average workweek of not to exceed forty-eight hours during an administratively established workweek cycle which the Commissioners are hereby authorized to establish from time to time.

(2) The firefighting division shall operate under a two-shift system and all hours of duty of any shift shall be consecutive.

(3) The Commissioners of the District of Columbia are further authorized and directed to establish a workweek for officers and members of the Fire Department, other than those in the firefighting division of forty hours, and the hours of work in such workweek shall be performed on consecutive days in such workweek: *Provided,* That notwithstanding the provisions of this subsection, the Commissioners of the District of Columbia or their designated agent or agents may, whenever the exigencies of the Fire Department require temporary or short-term services of one or more officers or members, order such officer, officers, member, or members to perform such services.

(4) The days off duty to which each officer or member of the Fire Department is entitled shall be in addition to his annual leave and sick leave allowed by law. In the case of any shift of the Fire Department beginning on one day and extending without a break in continuity into the next day, or in the case of two shifts beginning on the same day, the Commissioners are authorized to designate the shift which shall be the workday, and the entire shift so designated shall be considered the workday for all pay and leave purposes.

(5) If a holiday shall fall on an day off of any officer or member of the Fire Department, he shall be excused from duty on such other day as is designated by the Commissioners of the District of Columbia, and if he is required to be on duty in lieu of such day off, he shall receive compensation for such duty at the rate provided by law for duty performed on a holiday. When any shift of the Fire Department begins on the day before a holiday and extends without a break in continuity into the holiday, or begins on a holiday and extends without a breaks in continuity into the next day, the Commissioners of the District of Columbia are authorized to designate either of such shifts as the holiday workday, and the entire shift so designated shall be considered as the holiday workday for all pay and leave purposes. As used in this subsection the word "holiday" shall have the same meaning as such word has in section 4–808, and as supplemented by section 1–1210.

(6) Notwithstanding the provisions of the preceding subsection, whenever the Commissioners declare that an emergency exists of such a character as to necessitate the continuous service of all or some of the officers and members of the Fire Department, the granting of days off shall be suspended during the continuation of such emergency. Whenever the granting of days off has been suspended and discontinued pursuant to this subsection, each officer and member shall be entitled to receive, in addition to his annual basic salary, compensation at the basic daily rate for each day of duty which he performs by reason of the suspension and discontinuance of his days off under this subsection. Any officer or member so performing duty shall be entitled to all rights, benefits, and privileges, and shall be subject to all obligations and duties, to which he is entitled or to which he is subject on any regular workday. Additional compensation paid under this subsection shall not be considered as salary for the purpose of computing retirement compensation or relief payments under section 12 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved September 1, 1916, as amended, nod shall such additional compensation be subject to deduction as provided in section 5 of the Act entitled "An Act to fix the salaries of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia", approved July 1, 1930, as amended. (June 19, 1948, 62 Stat. 498, ch. 530, § 2; Aug. 4, 1955, 69 Stat. 491, ch. 549, § 2; Oct. 5, 1961, 75 Stat. 830, Pub. L. 87–399, §§ 1, 2; Sept. 25, 1962, 76 Stat. 596, Pub. L. 87–697, §§ 1, 2.)

References in Text

Section 12 of act Sept. 1, 1916, as amended, referred to in subsec. (f), formerly classified to sections 4–113, 4–114, 4–501, 4–503, 4–506, 4–507, 4–508 to 4–510, and 4–512 to 4–514, was completely amended by act Aug. 21, 1957, 71 Stat. 391, Pub. L. 85–157, § 3, and is now classified to sections 4–521 to 4–535.

Section 5 of act July 1, 1930, as amended, referred to in the text, formerly classified to sections 4–503 and 4–504, was repealed by act Aug. 21, 1957, 71 Stat. 399, Pub. L. 85–157, § 5 (2), and is now covered by section 4–524.

Amendments

1962—Act Sept. 25, 1962, amended the section as follows:

Paragraph (a) was amended to read as above set out. The amendment reduces the workweek of officers and members of the Firefighting Division to "an average workweek of not to exceed forty-eight hours".

Paragraphs (b), (c), (d), (e), and (f) were redesignated as paragraphs (2), (3), (4), (5), and (6), respectively.

Paragraph (c), redesignated as paragraph (3), was amended by striking the period, the addition of a colon and proviso clause as above set out.

1961—Section 1, act Oct. 5, 1961, amended subsection (a) to read as set out in (a), (b), (c), (d), and (e). The wording of subsection (a) prior to this amendment is set out in the main volume of the Code.

Section 2 of the same act amended the first sentence of former subsection (b) to read as above set out in sub-

section (f), the said subsection having been redesignated as (f) by the same act.

1955—Subsec. (b) amended by act Aug. 4, 1955, which added the matter following the first sentence.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 5 of act Sept. 25, 1962, provides as follows: "This Act [amending sections 4–404a, 4–821 and enacting 4–408b] shall take effect on the first day of the first pay period which begins not less than one hundred and twenty days after its enactment, or on or after the first day of the first pay period which begins on or after July 1, 1962, whichever is later."

EFFECTIVE DATE OF 1961 AMENDMENT

Section 7 of act Oct. 5, 1961, provided: "This Act [amending this section and sections 4–807, 4–821, 4–904, and adding 4–408a] shall take effect on the first day of the first full pay period which begins at least sixty days after the date of approval of this Act" [Oct. 5, 1961].

EFFECTIVE DATE OF 1955 AMENDMENT

Section 3 of act Aug. 4, 1955, provided: "This Act [amending this section and section 4–904] shall take effect on July 1, 1955."

TRANSFER OF FUNCTIONS

Fire Chief as successor to Chief Engineer, see note under section 4–402.

CROSS REFERENCES

Firemen excluded from general law concerning sick leave for District employees, but included as to annual leave, see § 1–312.

Formula for recording annual and sick leave, see § 4–408a.

Other provisions concerning leave, see § 4–408.

Policemen and firemen's retirement and disability, see § 4–521 et seq.

§ 4–408a. Recording annual and sick leave.

(a) For the purpose of recording annual and sick leave on the hourly basis for officers and members of the firefighting division of the Fire Department of the District of Columbia, the workday of any workweek shall be considered to be twelve hours.

(b) For the purposes of recording on an hourly basis annual and sick leave taken by officers and members of the firefighting division, the following formula shall be used:

(1) During the day shift of ten hours, one and two-tenths hours of leave shall be charged for each hour taken.

(2) During the night shift of fourteen hours, twelve-fourteenths of an hour of leave shall be charged for each hour taken, calculated to the nearest fractional tenth.

(Oct. 5, 1961, 75 Stat. 832, Pub. L. 87–399, § 6.)

EFFECTIVE DATE

Act Oct. 5, 1961, enacting this section and amending sections 4–404a, 4–807, 4–821, and 4–904 provided as follows: "This Act shall take effect on the first day of the first full pay period which begins at least sixty days after the date of approval of this Act" [Oct. 5, 1961.]

§ 4–408b. Annual leave of officers and members of the Firefighting Division—Adjustment of accumulated leave—Formula for determination of annual or sick leave—Maximum accumulations.

(a) In lieu of the annual leave to which officers and members of the Firefighting Division of the Fire Department of the District of Columbia are entitled under the provisions of section 5, U.S.C. 2062, as amended, such officers and members shall be entitled to annual leave which shall accrue as follows:

(1) Four and eight-tenths hours for each full biweekly pay period in the case of officers and members with less than three years' service;

(2) Seven and five-tenths hours for each full biweekly pay period in the case of officers and members with three but less than fifteen years' service;

(3) Nine and six-tenths hours for each biweekly pay period in the case of officers and members with fifteen years' or more service.

(b) Accumulated annual leave to the credit of each officer and member of such Firefighting Division shall be adjusted by applying a four-fifths factor so that each officer and member of such Firefighting Division shall be given credit for four-fifths of a day of leave for each day of such accumulated annual leave, and thereafter accumulated annual leave credited to him pursuant to the Annual and Sick Leave Act of 1951, as amended, shall be similarly adjusted when an officer or member is transferred to the Firefighting Division from another agency or from another division of the Fire Department.

(c) When an officer or member of such Firefighting Division is transferred to another agency or to another division of the Fire Department, whose employees are entitled to annual leave with pay pursuant to the Annual and Sick Leave Act of 1951, as amended, the reverse of the formula in subsection (b) shall be applied for the purpose of adjusting accumulated annual leave.

(d) For computation on an hourly basis, all adjusted days of annual leave or fractions thereof, as provided in subsections (b) and (c) of this section, and days of sick leave shall be multiplied by twelve to determine the number of hours of annual or sick leave to which each such officer or member of such Firefighting Division shall be entitled, and the number of hours of annual or sick leave shall be divided by twelve to determine the number of days, or fraction thereof, of annual or sick leave to which such officer or member of such Firefighting Division shall be entitled.

(e) Notwithstanding any provision in any other law, the amount of annual leave accumulated on the effective date of this section, if thirty days or more, shall, upon conversion to the new total in accordance with this section, be the maximum accumulation authorized: *Provided,* That if the amount of annual leave accumulated before the conversion is less than thirty days on the effective date of this section, then, after conversion to the new total, leave which is not used shall accumulate for use in succeeding years until it totals no more than twenty-four days at the beginning of the first complete biweekly pay period. (Sept. 25, 1962, 76 Stat. 596, Pub. L. 87–697, § 4.)

REFERENCES IN TEXT

The Annual and Sick Leave Act of 1951, referred to in text is set out in 5 U.S.C., chapter 23, and the other sections described in the note to section 5 U.S.C. 2061.

EFFECTIVE DATE

Section 5 of act Sept. 25, 1962, provides as follows: "This Act [amending sections 4–404a, 4–821 and enacting 4–408b] shall take effect on the first day of the first pay period which begins not less than one hundred and twenty days after its enactment, or on or after the first

day of the first pay period which begins on or after July 1, 1962, whichever is later."

CROSS REFERENCES

Other provisions relating to annual leave, see §§ 1–312, 4–408, 4–404a, and 4–821.

Chapter 5.—POLICEMEN AND FIREMEN'S RETIREMENT AND DISABILITY

§ 4–527. Retirement for disability while performing or not performing duty.

(1) Whenever any member is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed at the rate of 2 per centum of his basic salary at the time of retirement for each year or portion thereof of his service: *Provided,* That such annuity shall not exceed 70 percentum of his basic salary at the time of retirement, nor shall it be less than 66⅔ per centum of his basic salary at the time of retirement.

(2) In any case in which the proximate cause of an injury incurred or disease contracted by a member is doubtful, or is shown to be other than the performance of duty, and such injury or disease is shown to have been aggravated by the performance of duty to such an extent that the member is permanently disabled for the performance of duty, such disability shall be construed to have been incurred in the performance of duty. The member shall, upon retirement for such disability, receive an annuity computed at the rate of 2 per centum of his basic salary at the time of his retirement for each year or portion thereof of his service: *Provided,* That such annuity shall not exceed 70 per centum of his basic salary at the time of retirement, nor shall it be less than 66⅔ per centum of his basic salary at the time of retirement. (Sept. 1, 1916, ch. 433, § 12(g), as added Aug. 21, 1957, 71 Stat. 394, Pub. L. 85–157, § 3; Oct. 23, 1962, 76 Stat. 1133, Pub. L. 87–857, § 1.)

AMENDMENT

Act Oct. 23, 1962, amended section by designating first paragraph as (1) and by adding paragraph (2).

§ 4–528. Optional retirement—Conditions—Suspension of retirement provisions during emergency.

NOTES TO DECISIONS

2. Right to retirement.

Fireman suspended for misconduct was still a "member" of fire department within statute providing that any member attaining age of 50 years and completing 20 years of service may state intention to retire and shall be entitled to annuity and fireman, who had not been discharged, had absolute right to elect retirement. *E. J. Daigle* v. *Robert E. McLaughlin et al.* (1961, 193 F. Supp. 902).

§ 4–529. Involuntary separation from service.

TRANSFER OF FUNCTIONS

Reorg. Ord. No. 47, as amended June 21, 1962, transferred the authority to express a judgment as to the disability of a member from performing further duty in his department to the Police and Firemen's Retirement and Relief Board. This authority was formerly vested in the Board of Police and Fire Surgeons. This amendment also outlined certain duties of the Board of Police and Fire Surgeons. The amendment to the order is set out in the appendix to Title 1.

§ 4–533. Duties of Commissioners in retirement and annuity matters—Certification of physical condition of member—Written notice of hearing—Procedure at hearings—Subpena—Contempt proceedings.

TRANSFER OF FUNCTIONS

Reorg. Ord. No. 31 was amended on June 21, 1962, delegating the authority set forth in sec. 4–529 to express a judgment as to the disability of a member, exclusively to the Police and Firemen's Retirement and Relief Board and also outlining the evidence to be considered by the Board in making findings of fact. The amendments to the order are set out in the appendix to Title 1.

§ 4–539. Annuity rights of widows and children of officers and members who died in service prior to October 1, 1956—Existing benefits not reduced.

Each widow or child who, on or after the effective date of this section, was receiving or is now receiving or shall hereafter be entitled to receive relief or annuity by reason of service in the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, or the United States Secret Service Division, of a deceased former officer or member who died in the service of any such organization prior to the effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957, or who retired prior to such effective date, shall be entitled to benefits computed in accordance with the provisions of section 4–531.

Nothing in this section shall be deemed to reduce the relief or retirement compensation any person receives, or is entitled to receive, on the date of the enactment of this section. (Aug. 24, 1962, 76 Stat. 402, Pub L. 87–601, §§ 1, 2.)

REFERENCE IN TEXT

The effective date of Firemen's Retirement and Disability Act Amendments of 1957 is Oct. 1, 1956. The said act is classified to sections 4–521 to 4–538.

EFFECTIVE DATE OF ACT AUG. 24, 1962

Section 3 of act Aug. 24, 1962, provides as follows: "The effective date of this Act shall be the first day of the first month following the date of enactment."

Chapter 8.—SALARIES

§ 4–807. Additional compensation for working on holidays.

Under regulations promulgated by the Commissioners of the District of Columbia each officer and member of the Metropolitan Police force and of the Fire Department of the District of Columbia when

he may be required to work on any holiday, shall be compensated for such duty, excluding periods when he is in a leave status, in lieu of his regular rate of basic compensation for such work, at the rate of twice such regular rate of basic compensation: *Provided,* That for the purpose of sections 4–807 to 4–809, each such officer or member who works eight hours or less on any holiday shall be compensated for such duty in addition to his regular rate of basic compensation for such work, at the rate of one-eighth of his daily rate of basic compensation for each hour so worked, computed to the nearest hour, counting thirty minutes or more as a full hour: *Provided further,* That the total compensation to be paid any such officer or member for duty performed on a holiday shall not exceed an amount equal to twice the daily rate of pay to which such officer or member shall be entitled for performing one regular tour of duty on a day other than a holiday: *And provided further,* That no such officer or member shall be entitled to additional compensation for such holiday work for any day for which he is entitled to receive additional compensation under the provisions of subsection (e) of section 4–904. So much of the compensation for such holiday work as is in excess of the regular pay for such day shall not be considered as salary for the purpose of computing deductions for life insurance or for computing annuity payments under the provisions of the Policemen and Firemen's Retirement and Disability Act (sections 4–521 to 4–535), nor shall such excess compensation be subject to deduction as provided in sections 4–521 to 4–535. Appropriations for personal services for the Metropolitan Police force, the Fire Department of the District of Columbia, the White House Police force, and the United States Park Police force shall be available for payment of the additional compensation authorized by sections 4–807 to 4–809. (Oct. 24, 1951, 65 Stat. 607, ch. 544, § 1; July 18, 1958, 72 Stat. 377, Pub. L. 85–533, § 4(a); Oct. 5, 1961, 75 Stat. 831, Pub. L. 87–399, § 4.)

AMENDMENT

1961—Section 4, act Oct. 5, 1961, amended this section to read as above set out. The provisions of the section prior to this amendment are set out in the main volume of this Code.

EFFECTIVE DATE OF 1961 AMENDMENT

See note under section 4–404a.

§ 4–821. Computation of rates of compensation.

* * * * *

(b) Whenever for any such purpose it is necessary to convert a basic annual rate established by this Act or the District of Columbia Police and Firemen's Salary Act of 1958 to basic biweekly, weekly, daily, half-daily, or hourly rate, the following rules shall govern:

(A) The annual rate shall be divided by fifty-two or twenty-six, as the case may be, to derive a weekly or biweekly rate;

(B) A weekly or biweekly rate shall be divided by five or ten, as the case may be, to derive a daily rate;

(C) A daily rate shall be divided by two to derive a one-half daily rate; and

(D) In the case of the Metropolitan Police force, except with respect to computation of holiday pay, a biweekly rate shall be divided by the number of hours constituting the biweekly tour of duty in order to derive an hourly rate.

(E) In the case of the Firefighting Division of the Fire Department of the District of Columbia—

(i) a biweekly rate shall be divided by two to derive a weekly rate;

(ii) the weekly rate shall be divided by the number of workdays in the average established workweek to arrive at a daily rate;

(iii) a daily rate shall be divided by two to derive a one-half daily rate; and

(iv) an hourly rate shall be determined by dividing the daily rate of pay by twelve, except for the purpose of computation of holiday pay.

(F) In the case of officers and members of divisions of the Fire Department of the District of Columbia other than the firefighting division, except with respect to computation of holiday pay, a biweekly rate shall be divided by the number of hours constituting the biweekly tour of duty in order to derive an hourly rate.

All rates shall be computed to the nearest cent, counting one-half cent and over as a whole cent. (As amended Oct. 5, 1961, 75 Stat. 831, Pub. L. 87–399, § 5; Sept. 25, 1962, 76 Stat. 596, Pub. L. 87–697, § 3.)

AMENDMENTS

1962—Section 3 of act Sept. 25, 1962, amended clause (E) of subsection (b) to read as above set out. Clause (E) before this amendment read as follows: "(E) in the case of the firefighting division of the Fire Department of the District of Columbia, except with respect to computation of holiday pay, the weekly or biweekly rate shall be divided by 56 or 112, as the case may be, to derive an hourly rate."

1961—Section 5, act Oct. 5, 1961, amended clause (D) of subsection (b) to read as above set out under clauses (D), (E), and (F). The wording of clause (D) prior to amendment is set out in the main volume of the Code.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 5 of act Sept. 25, 1962, provides as follows: "This Act [amending sections 4–404a, 4–821 and enacting 4–408b] shall take effect on the first day of the first pay period which begins not less than one hundred and twenty days after its enactment, or on or after the first day of the first pay period which begins on or after July 1, 1962, whichever is later."

EFFECTIVE DATE OF 1961 AMENDMENT

See note under section 4–404a.

§ 4–823. Salary schedules—Rates of basic compensation of officers and members of Metropolitan Police force and Fire Department.

The annual rates of basic compensation of the officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia shall be fixed in accordance with the following schedule of rates:

SALARY SCHEDULE

Salary class and title	Service step 2	Service step 2	Service step 3	Service step 4	Service step 5	Service step 6	Longevity step 7	Longevity step 8	Longevity step 9
Class 1:									
Subclass (a) Fire private. Police private.	$5,650	$5,950	$6,250	$6,550	$6,850	$7,150	$7,450	$7,750	$8,050
Subclass (b) Private assigned as— Technician I. Plainclothesman.[1]	5,920	6,220	6,520	6,820	7,120	7,420	7,720	8,020	8,320
Subclass (c) Private assigned as— Technician II. Station clerk. Motorcycle officer.	6,190	6,490	6,790	7,090	7,390	7,690	7,990	8,290	8,590
Class 2:									
Subclass (a) Fire inspector.	6,550	6,850	7,150	7,450	----------	----------	7,750	8,050	8,350
Subclass (b) Fire inspector assigned as— Technician I.	6,820	7,120	7,420	7,720	----------	----------	8,020	8,320	8,620
Subclass (c) Fire inspector assigned as— Technician II.	7,090	7,390	7,690	7,990	----------	----------	8,290	8,590	8,890
Class 3 Assistant marine engineer. Assistant pilot. Detective.	6,990	7,290	7,590	7,890	----------	----------	8,190	8,490	8,790
Class 4:									
Subclass (a) Fire sergeant. Police sergeant.	7,450	7,750	8,050	8,350	----------	----------	8,650	8,950	9,250
Subclass (b) Detective sergeant.	7,890	8,190	8,490	8,790	----------	----------	9,090	9,390	9,690
Subclass (c) Police sergeant assigned as— Motorcycle officer.	7,930	8,230	8,530	8,830	----------	----------	9,130	9,430	9,730
Class 5 Fire lieutenant. Police lieutenant. Detective lieutenant.	8,350	8,725	9,100	9,475	----------	----------	9,850	10,225	----------
Class 6 Marine engineer. Pilot.	8,915	9,290	9,665	10,040	----------	----------	10,415	10,790	----------
Class 7 Fire captain. Police captain. Detective captain.	9,475	9,850	10,225	10,600	----------	----------	10,975	11,350	----------
Class 8 Assistant Superintendent of Machinery. Battalion fire chief. Deputy fire marshal. Police inspector.	10,975	11,375	11,775	12,175	----------	----------	12,575	12,975	----------
Class 9 Deputy Fire Chief. Deputy Chief of Police. Fire marshal. Superintendent of Machinery.	12,575	12,975	13,375	13,775	----------	----------	14,175	14,575	----------
Class 10 Fire Chief. Chief of Police.	17,000	17,400	17,800	18,200	----------	----------	18,600	19,000	----------

[1] Service as such for over 60 consecutive calendar days.

(Aug. 1, 1958, 72 Stat. 481, Pub. L. 85–584, Title I, § 101; Oct. 24, 1962, 76 Stat. 1239, Pub. L. 87–882, § 1.)

AMENDMENTS

1962—Section 1 of act Oct. 24, 1962, amended section to read as above set out.

EFFECTIVE DATE OF 1962 AMENDMENTS

Section 5 of act Oct. 24, 1962, provides as follows: "This Act [amending § 4–823, enacting § 4–823c, amending § 4–826, enacting § 826a, amending §§ 4–830 and 4–832 and repealing § 4–823a] shall take effect as of the first day of the first pay period beginning after January 1, 1963."

§ 4–823a. Repealed. Oct. 24, 1962, 76 Stat. 1243, Pub. L. 87–882, § 4.

Section of act Sept. 8, 1960, 74 Stat. 868, Pub. L. 86–734, § 1, provided for salary increases of 7.5 per centum of basic compensation.

For effective date of repeal, see note to section 4–823.

§ 4–823c. Adjustment of rates of basic compensation of officers and members to whom section 4–823, as amended by act October 24, 1962, applies—Service and longevity rates.

The rates of basic compensation of officers and members to whom the amendment made by section 4–823 apply shall be adjusted in accordance with this section, and on and after the effective date of this Act section 4–824 shall not apply to any such officer or member whose rate of basic compensation is so adjusted in accordance with this section. Such rates of basic compensation shall be adjusted as follows:

(a) Each officer and member receiving basic compensation immediately prior to the effective date of this Act at one of the scheduled service or longevity rates of a class or subclass in the salary schedule in the District of Columbia Police and Firemen's Salary Act of 1958, as amended, shall receive a rate of basic compensation at the corresponding scheduled service or longevity rate in effect on and after the effective date of this Act, except that:

(1) Each private who immediately prior to the effective date of this Act was serving in service step 6, or longevity steps 7 or 8 in any subclass in class 1, and had a total of thirteen or more years of service as of the first day of the first pay period which began after January 1, 1958, shall, on the effective date of this Act, be advanced from

service step 6 to longevity step 7, or from longevity step 7 to longevity step 8, or from longevity step 8 to longevity step 9, as the case may be, and receive the appropriate scheduled rate of basic compensation for such step in the subclass in which he is serving. Any active service immediately prior to the effective date of this Act which each such private has rendered in the service step or longevity step from which he is being advanced will be credited to him for subsequent advancement purposes under the provisions of section 4–832 except that such active service provision shall not apply to any private assigned as detective, class 1, subclass (c), immediately prior to the effective date of this Act.

(2) Each private who, immediately prior to the effective date of this Act, was serving in a position bearing the title of station clerk in class 1, subclass (b), shall be placed in the corresponding title in class 1, subclass (c), and shall receive basic compensation (1) at the service step or longevity step in subclass (c) corresponding to that service step or longevity step in which he was serving immediately prior to the effective date of this Act, or (2) at the longevity step to which he is entitled under the provisions of paragraph (1) of subsection (a) of this section. Any active service which each private so assigned as station clerk has rendered in the service step or longevity step in which he was serving immediately prior to the effective date of this Act will be credited to him for subsequent advancement purposes under the provisions of section 4–829 or section 4–832 as the case may be.

(3) Each private who immediately prior to the effective date of this Act was serving in a position bearing the title of detective or precinct detective in class 1, subclass (c) or subclass (d), shall on the effective date of this Act, after the application of the provisions of paragraph (1) of subsection (a) of this section, be placed in and receive basic compensation at a scheduled rate in class 3, with the title of detective as follows:

From—	To—
Detective, class 1, subclass (c):	Detective, class 3:
Service steps 1, 2, 3, and 4	Service step 1.
Service step 5	Service step 2.
Service step 6	Service step 3.
Longevity step 7	Service step 4.
Longevity step 8	Longevity step 7.
Longevity step 9	Longevity step 8.

From—	To—
Precinct detective, class 1, subclass (d):	Detective, class 3:
Service steps 1, 2, and 3	Service step 1.
Service step 4	Service step 2.
Service step 5	Service step 3.
Service step 6	Service step 4.
Longevity step 7	Longevity step 7.
Longevity step 8	Longevity step 8.
Longevity step 9	Longevity step 9.

In computing the time served by each officer or member so assigned from detective, class 1, subclass (c), to detective, class 3, on the effective date of this Act for purposes of advancement to the next higher scheduled service step or longevity step as provided in section 4–829 or 4–832, as the case may be, such time shall commence as of the effective date of this Act. Any active service which each officer or member so assigned from precinct detective, class 1, subclass (d), to detective, class 3, has rendered in the service step or longevity step in which he was serving immediately prior to the effective date of this Act will be credited to him for subsequent advancement purposes under the provisions of section 4–829 or section 4–832, as the case may be.

(4) Each private who immediately prior to the effective date of this Act was serving in a position bearing the title of detective sergeant in class 1, subclass (e), shall on the effective date of this Act, after the application of the provisions of paragraph (1) of subsection (a) of this section be placed in the corresponding title in class 4, subclass (b), and shall receive the scheduled rate of basic compensation at a service step or longevity step as follows:

From—	To—
Detective sergeant, class 1, subclass (e):	Detective sergeant, class 4, subclass (b):
Service steps 1, 2, and 3	Service step 1.
Service step 4	Service step 2.
Service step 5	Service step 3.
Service step 6	Service step 4.
Longevity step 7	Longevity step 7.
Longevity step 8	Longevity step 8.
Longevity step 9	Longevity step 9.

Any active service which each officer or member so assigned as detective sergeant has rendered in the service step or longevity step in which he was serving immediately prior to the effective date of this Act will be credited to him for subsequent advancement purposes under provisions of section 4–829 or section 4–832, as the case may be.

(5) Each officer and member who, immediately prior to the effective date of this Act, was in class 3, subclass (a), as corporal, or in class 3, subclass (b), as corporal assigned as motorcycle officer, shall, on the effective date of this Act be placed in and receive basic compensation at a scheduled rate in class 4, subclass (a), or class 4, subclass (c), as the case may be, with the title of sergeant as follows:

From—	To—
Corporal, class 3, subclass (a):	Sergeant, class 4, subclass (a):
Service steps 1 and 2	Service step 1.
Service step 3	Service step 2.
Service step 4	Service step 3.
Longevity step 7	Service step 4.
Longevity step 8	Longevity step 7.
Longevity step 9	Longevity step 8.

From—	To—
Corporal assigned as motorcycle officer, class 3, subclass (b):	Sergeant assigned as motocycle officer, class 4, subclass (c):
Service steps 1 and 2	Service step 1.
Service step 3	Service step 2.
Service step 4	Service step 3.
Longevity step 7	Service step 4.
Longevity step 8	Longevity step 7.
Longevity step 9	Longevity step 8.

In computing the time served by each officer or member so assigned from corporal to sergeant or from corporal to sergeant assigned as motorcycle

officer on the effective date of this Act for purposes of advancement to the next higher scheduled service step or longevity step as provided in section 4–829 or 4–832, as the case may be.

(6) Each officer or member who was a sergeant in class 4 immediately prior to the effective date of this Act, and who was a sergeant prior to July 1, 1953, shall be advanced to and shall receive the scheduled rate of basic compensation for longevity step 9 in class 4. Each officer or member who was a sergeant in class 4 immediately prior to the effective date of this Act and who was promoted to sergeant after June 30, 1953, and prior to the effective date of the District of Columbia Police and Firemen's Salary Act of 1958, shall, if immediately prior to the effective date of this Act he was serving in longevity step 7 or service step 4 or any lower service step, be advanced to the second higher scheduled step in class 4 above such step in which he was so serving or if, immediately prior to the effective date of this Act he was serving in longevity step 8 he shall be advanced to longevity step 9 in class 4, and shall receive the scheduled rate of basic compensation for the step to which he is advanced. Each officer or member who was a sergeant in class 4 immediately prior to the effective date of this Act and who was promoted to sergeant on or after the effective date of the District of Columbia Police and Firemen's Salary Act of 1958, shall be advanced to and receive the scheduled rate of basic compensation for the next higher scheduled step in class 4. Any active service which each such sergeant has rendered in the service step or longevity step in which he was serving immediately prior to the effective date of this Act will be credited to him for subsequent advancement purposes under the provisions of section 4–829 or section 4–832, as the case may be.

(7) Each officer or member receiving basic compensation at scheduled longevity step 9, in classes 5 though 10, respectively, of the District of Columbia Police and Firemen's Salary Act of 1958, as amended, shall be placed in and receive the rate of basic compensation at the scheduled longevity step 8, in classes 5 through 10, respectively, of the above schedule.

(Oct. 24, 1962, 76 Stat. 1240, Pub. L. 87–882, § 2.)

References in Text

The District of Columbia Police and Firemen's Salary Act of 1958, as amended, referred to in text, is set out in sections 4–823 to 4–837.

"This Act" referred to in text [act Oct. 24, 1962, Pub. L. 87–882], is this section, the amendments to sections 4–823, 4–826, 4–830, and 4–832, the enactment of 4–826a, and the repeal of section 4–823a.

Effective Date of 1962 Act

Section 5 of act Oct. 24, 1962, provides as follows: "This Act [enacting this section, amending sections 4–823, 4–826, 4–830 and 4–832, and enacting section 4–826a and repealing section 4–823a] shall take effect as of the first day of the first pay period beginning after January 1, 1963."

Effective Date of the District of Columbia Police and Firemen's Salary Act of 1958

Section 508(a) of act Aug. 1, 1958, Pub. L. 85–584, provided that: "This Act shall take effect as of the first day of the first pay period which begins after January 1, 1958."

§ 4–826. Positions to be included as Technician II.

In initially adjusting salaries, the following positions shall be included as Technician II in Sub-Class (c) of Class 1 of the schedule in section 4–823:

(a) Chief Radio Technician for the Fire Department;

(b) Aide to the Fire Chief, Deputy Chief, Battalion Fire Chief, or Superintendent of Machinery. (Aug. 1, 1958, 72 Stat. 483, Pub. L. 85–584, § 203; Oct. 24, 1962, 76 Stat. 1242, Pub. L. 87–882, § 3(a).)

Amendment

1962—Act Oct. 24, 1962, section 3(a) amended section by striking out the words, "Fire Marshal."

Effective Date of 1962 Amendment

See note to section 4–823.

§ 4–826a. Classification of aide to Fire Marshal.

The aide to the Fire Marshal shall be included as a fire inspector in class 2, subclass (a). (Aug. 1, 1958, Pub. L. 85–584, § 204, as added, Oct. 24, 1962, 76 Stat. 1242, Pub. L. 87–882, § 3(b).)

Effective Date

See note to section 4–823.

§ 4–830. Promotion—Rate of basic compensation—Method of placement of an officer or member assigned or transferred to a Sub-Class.

Any officer or member who is promoted or transferred to a higher class shall receive basic compensation at the lowest scheduled rate of such higher class which exceeds his existing rate of compensation by not less than one step increase of the class from which he is promoted or transferred: *Provided,* That any such officer or member serving in a subclass other than subclass (a) of any class (who is not assigned as a detective sergeant in class 4, subclass (b)) shall receive basic compensation at the lowest scheduled rate of such higher class which exceeds by one step increase the rate shown for subclass (a) in the same step in which he was serving in the class from which promoted: *Provided further,* That such scheduled rate in the higher class shall not be less than his existing rate of pay. If the existing rate of compensation of an officer or member is above the maximum longevity step increase in the class from which he is promoted or transferred and there is no rate in the higher class to which he is promoted or transferred, which is at least one step increase above his existing rate, such officer or member shall receive the maximum longevity rate of such higher class or his existing rate, whichever is greater. Any officer or member in any class who is assigned or transferred to any Sub-Class within the same Class shall be placed in the same service or longevity step in such Sub-Class as that which he was in immediately prior to being so assigned or transferred. (Aug. 1, 1958, 72 Stat. 484, Pub. L. 85–584, § 304; Oct. 24, 1962, 76 Stat. 1243, Pub. L. 87–882, § 3(c).)

Amendment

1962—Section 3(c) of act Oct. 24, 1962, amended the section by adding the proviso clauses to the first sentence.

Effective Date of 1962 Amendment

See note to section 4–823.

§ 4–832. Longevity step increases—Conditions—Frequency of increases—Maximum increases—Date of beginning of step increases—Manner of crediting satisfactory service rendered prior to effective date of sections 4–823 to 4–837.

* * * * *

(a)(2) Not more than three successive longevity step increases may be granted to any officer or member in classes 1 through 4, nor more than two successive longevity step increases may be granted to any officer or member in classes 5 through 10; nor shall any officer or member be granted a longevity step increase above the maximum scheduled longevity step in the subclass in which he is serving or, if there are no subclasses in his class, in the class in which he is serving.

* * * * *

(As amended Oct. 24, 1962, 76 Stat. 1243, Pub. L. 87–882, § 3(d).)

Effective Date of 1962 Amendment

See note to section 4–823.

Amendment

1962—Section 3(d) of act Oct. 24, 1962, amended paragraph (2) of subsection (a) to read as above set out. For provisions of this paragraph prior to this amendment see main volume of the Code.

Chapter 9.—MISCELLANEOUS PROVISIONS

Sec.

§ 4–904. Five-day week established for officers and members of Metropolitan Police, Fire Department of the District of Columbia, United States Park Police and White House Police—Suspension during emergencies—Additional compensation.

* * * * *

(e) For each day a vacancy exists in the personnel strength for which funds are appropriated by applicable appropriation acts current in any fiscal year in any particular rank of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, or the White House Police force, the Chief of Police, the Fire Chief, the Secretary of the Interior, and the Chief of the Secret Service Division may permit an officer or member of their respective forces of such rank voluntarily to perform duty on any day off granted under this section. Each such officer or member shall be entitled to receive, in addition to his annual basic salary, compensation at the basic daily rate for each day of duty voluntarily performed under this subsection, such additional compensation to be paid from current appropriations. Any officer or member so volunteering to perform duty on a day off shall be entitled to all rights, benefits, and privileges, and shall be subject to all obligations and duties, to which he is entitled or to which he is subject on any regular workday. Additional compensation paid under this subsection shall not be considered as salary for the purpose of computing retirement compensation or relief payments under section 12 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved September 1, 1916, as amended, nor shall such additional compensation be subject to deduction as provided in such section. (As amended, Oct. 5, 1961, 75 Stat. 831, Pub. L. 87–399, § 3.)

References in Text

Section 12 of act Sept. 1, 1916, as amended, referred to in subsection (e), is set out in sections 4–521 to 4–535.

Amendment

1961—Section 3, act Oct. 5, 1961, amended subsection (e) as follows:

(a) By inserting "the Fire Department of the District of Columbia" after "Metropolitan Police force,"; (b) by striking "Major and Superintendent of Police,"; and inserting in lieu thereof "Chief of Police, the Fire Chief,"; and (c) by striking therefrom "section 5 of the Act entitled 'An Act to fix the salaries of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia', approved July 1, 1930, as amended", and inserting in lieu thereof "such section".

Effective Date of 1961 Amendment

See note to section 4–404a.

Cross Reference

For duties and size of White House Police Force, see 3 U.S.C. 202, 203.

TITLE 5.—BUILDING RESTRICTIONS AND REGULATIONS

Chapter 1.—ALLEY DWELLINGS

§ 5–105a. Disposition of receipts from sales, leases, etc.

All receipts derived from sales, leases, or other sources shall be covered into the Treasury of the United States monthly. (Aug. 17, 1961, 75 Stat. 355, Pub. L. 87–141, title I, § 101.)

SIMILAR PROVISIONS

1962—Oct. 3, 1962, 76 Stat. 731, Pub. L. 87–741, § 101.

Section is from the Independent Offices Appropriation act 1962, act Aug. 17, 1961. Similar provisions were contained in the following appropriation act.

1961—July 12, 1960, 74 Stat. 436, Pub. L. 86–626, title I, § 101. For earlier similar provisions see main volume of Code.

Chapter 4.—ZONING AND HEIGHT OF BUILDINGS

§ 5–405. Width of street to govern height—Business streets—Residence streets—Corner lots—Fireproof requirements—Dean Tract—Restrictions and limitations applicable to specific property.

* * * * *

On a residence street, avenue, or highway no building shall be erected, altered, or raised in any manner so as to be over ninety feet in height at the highest part of the roof or parapet, nor shall the highest part of the roof or parapet exceed in height the width of the street, avenue, or highway upon which it abuts, diminished by ten feet, except on a street, avenue, or highway sixty to sixty-five feet wide, where a height of sixty feet may be allowed; and on a street, avenue, or highway sixty feet wide or less, where a height equal to the width of the street may be allowed: *Provided,* That any church, the construction of which had been undertaken but not completed prior to June 1, 1910, shall be exempted from the limitations of this paragraph, and the Commissioners of the District of Columbia shall cause to be issued a permit for the construction of any such church to a height of ninety-five feet above the level of the adjacent curb.

* * * * *

(As amended Sept. 22, 1961, 75 Stat. 583, Pub. L. 87–281, § 1.)

AMENDMENT

Act Sept. 22, 1961, 75 Stat. 583, Pub. L. 87–281, § 1, amended the third paragraph of the section by striking out the words, "over eight stories in height or".

§ 5–410. Applications for erection or alteration of buildings fronting on certain government property to be submitted to Commission of Fine Arts.

NOTES TO DECISIONS

1. Authority of Fine Arts Commission

Northeast corner of intersection of Thirteenth and E Streets NW., in District of Columbia, which was clearly in line of a well-nigh unobstructed view from Pennsylvania Avenue as well as in close proximity thereto, was within area of authority of Commission of Fine Arts. *Stanley Company of America et al.* v. *W. N. Tobriner et al., Commissioners, etc.* (1961, 298 F. 2d 318, — U.S. App. D.C. —).

Interpretation of the phrase "to front" on Pennsylvania Avenue for a period over 30 years so as to include a certain corner within authority of Commission of Fine Arts would not be disturbed by courts unless the act, reasonably construed, so required. *Id.*

Purpose of act conferring authority upon Commission of Fine Arts to pass upon a permit where erection or alteration of any building, any portion of which is to front upon a certain portion of Pennsylvania Avenue, is to enhance and preserve beauty and aesthetic value of specified parts of Nation's Capital but Commission's authority does not extend to all buildings that can be seen from the specified portion of Pennsylvania Avenue. *Id.*

§ 5–411. Plats of restricted area to be prepared.

NOTES TO DECISIONS

Adjacent 1
Authority of Fine Arts Commission 2

1. Adjacent

Under statute giving Commission of Fine Arts duty of approving alteration of buildings adjacent to public buildings of major importance and when part of property fronts or abuts on portion of Pennsylvania Avenue extending from Capitol to White House, property located on Thirteenth Street Northwest was "adjacent" and did "front" on Pennsylvania Avenue within contemplation of statute. *Stanley Company of America Inc., et al.* v. *R. E. McLaughlin et al.* (1961, 195 F. Supp. 519).

2. Authority of Fine Arts Commission

Northeast corner of intersection of Thirteenth and E Streets NW., in District of Columbia, which was clearly in line of a well-nigh unobstructed view from Pennsylvania Avenue as well as in close proximity thereto, was within area of authority of Commission of Fine Arts. *Stanley Company of America et al.* v. *W. N. Tobriner et al., Commissioners etc.* (1961, 298 F. 2d 318, — U.S. App. D.C. —).

Interpretation of the phrase "to front" on Pennsylvania Avenue for a period over 30 years so as to include a certain corner within authority of Commission of Fine Arts would not be disturbed by courts unless the act, reasonably construed, so required. *Id.*

Purpose of act conferring authority upon Commission of Fine Arts to pass upon a permit where erection or alteration of any building, any portion of which is to front upon a certain portion of Pennsylvania Avenue, is to enhance and preserve beauty and aesthetic value of specified parts of Nation's Capital but Commission's authority does not extend to all buildings that can be seen from the specified portion of Pennsylvania Avenue. *Id.*

§ 5–413. Zoning regulations to be made by Zoning Commission—Uniformity.

NOTES TO DECISIONS

9.50. Reasons for decision

Ultimate factors established by zoning regulation as prerequisites for allowance of special exception permitting construction of private school in residential district must be satisfied before Board of Zoning Adjustment may lawfully issue decision on merits of application. *Robey et al., and Woodley Hill Area Home Owners Assn. et al.* v. *Schwab, Jr., et al., and Scrivener et al., As Members of Board, etc.* (1962, 307 F. 2d 198, — U.S. App. D.C. —).

"Full reasons" within section of zoning regulation to effect that full reasons for decisions of Board of Zoning Adjustment shall be entered in minutes book means that, in order to support its conclusions, board shall make basic findings of fact regarding special exceptions and, although finding need not amount to exhaustive summation of all evidence, board must state facts which persuaded it to arrive at its decision. *Id.*

Order of Board of Zoning Adjustment containing little more than reiteration of language of regulations insofar as they set forth conditions necessary for allowance of special exception to permit erection of private school in area zoned as residential was insufficient under zoning regulations requiring that full reasons for Board's decisions be entered in minutes book and case must be remanded to Board for findings of fact. *Id.*

Parties protesting granting of exception to permit erection of private school in area zoned as residential were entitled to be given official notice of exact plans that Board of Zoning Adjustment would ultimately consider and must be accorded full opportunity to present evidence. *Id.*

§ 5–415. Existing zoning regulations continued until amended—Public hearing on amendments—Notice—Contents.

NOTES TO DECISIONS

Purpose of hearings 1
Notice of hearing 2

1. Purpose of hearings

A purpose of zoning hearings is to explore subject such as limitations with respect to floor area ratio or limitation of lot occupancy in connection with proposed changes in zoning regulations. *S. J. Aquino* v. *Tobriner et al., Commissioners etc.* (1961, 298 F. 2d 674, 112 U.S. App. D.C. 13).

That substantial changes were made in zoning proposals originally put forward did not invalidate changes in regulations rezoning as "R–4", wherein only certain types of residential construction were permitted, lots formerly zoned "first commercial", where rezoning was purpose of hearing, even though original proposals did not require limitation on floor area ratio or lot occupancy and rezoning as adopted did. *Id.*

2. Notice of hearing

Statutory requirement that District of Columbia Commissioners give such notice, in addition to notice published in newspaper, of zoning hearing as Commission deems feasible and practical is not mandatory, but whether and what kind of added notice will be given in particular case is in discretion of Commission. *S. J. Aquino* v. *Tobriner et al., Commissioners etc.* (1961, 298 F. 2d 674, 112 U.S. App. D.C. 13).

Zoning Commission's failure to give additional notice beyond newspaper publication of notice of hearing on zoning regulation changes was not abuse of discretion in absence of showing that giving of additional notice was feasible and practical, particularly in view of fact that hearing was attended by considerable publicity. *Id.*

§ 5–420. Board of Zoning Adjustment—Creation, membership—Tenure—Regulations to govern organization and procedure—Appeal—Procedure, powers—Majority vote necessary.

NOTES TO DECISIONS

9.50. Reasons for decision

Ultimate factors established by zoning regulation as prerequisites for allowance of special exception permitting construction of private school in residential district must be satisfied before Board of Zoning Adjustment may lawfully issue decision on merits of application. *Robey et al. and Woodley Hill Area Home Owners Ass'n. et al.* v. *Schwab, Jr., et al., and Scrivener et al., as Members of Board etc.* (1962, 307 F. 2d 198, — U.S. App. D.C. —).

Order of Board of Zoning Adjustment containing little more than reiteration of language of regulations insofar as they set forth conditions necessary for allowance of special exception to permit erection of private school in area zoned as residential was insufficient under zoning regulations requiring that full reasons for Board's decisions be entered in minutes book and case must be remanded to Board for findings of fact. *Id.*

"Full reasons" within section of zoning regulation to effect that full reasons for decisions of Board of Zoning Adjustment shall be entered in minutes book means that, in order to support its conclusions, board shall make basic findings of fact regarding special exceptions and, although findings need not amount to exhaustive summation of all evidence, board must state facts which persuaded it to arrive at its decision. *Id.*

Parties protesting granting of exception to permit erection of private school in area zoned as residential were entitled to be given official notice of exact plans that Board of Zoning Adjustment would ultimately consider and must be accorded full opportunity to present evidence. *Id.*

Chapter 5.—UNSAFE STRUCTURES

§ 5–501. Structure reported unsafe, to be examined by inspector of buildings—If unsafe, notice to be given to make same secure—If safety requires, inspector may make secure.

NOTES TO DECISIONS

2. Party wall

District of Columbia Code provision authorizing District to make structures safe at owners' expense applied to party wall which had been in unsafe condition before its condition was revealed by one owner's razing. *District of Columbia and First Baptist Church of the City of Washington, D.C.* v. *J. B. Wentworth* (1961, 288 F. 2d 421, 110 U.S. App. D.C. 19).

§ 5–502. If dangers not remedied, premises to be surveyed by three disinterested persons—Report.

NOTES TO DECISIONS

1. Party wall

District of Columbia Code provision authorizing District to make structures safe at owners' expense applied to party wall which had been in unsafe condition before its condition was revealed by one owners' razing. *District of Columbia and First Baptist Church of the City of Washington, D.C.*, v. *J. B. Wentworth* (1961, 288 F. 2d 421, 110 U.S. App. D.C. 19).

§ 5–503. Inspector of buildings to make structure safe if responsible person does not—Cost and expense—How assessed—Neglect of lessee—Rights of lessor.

NOTES TO DECISIONS

1. Party wall

District of Columbia Code provision authorizing District to make structures safe at owners' expense applied to party wall which had been in unsafe condition before its condition was revealed by one owners' razing. *District of Columbia and First Baptist Church of the City of Washington, D.C.* v. *J. B. Wentworth* (1961, 288 F. 2d 421, 110 U.S. App. D.C. 19).

Chapter 7.—HOUSING REDEVELOPMENT

§ 5–701. General purposes.

NOTES TO DECISIONS

3. Tort Actions

The District of Columbia Redevelopment Land Agency is a Federal agency within meaning of the Federal Tort Claims Act, and suits based on torts allegedly committed by the Agency or its employees acting in an official capacity are maintainable, if at all, under the Tort Claims Act, and must name the United States as defendant. *C. R. Goddard* v. *District of Columbia Redevelopment Land Agency etc.* (1961, 287 F. 2d 343, 109 U.S. App. D.C. 304).

§ 5–704. Power to acquire and assemble real property.

NOTES TO DECISIONS

7.50. Tort Actions

The District of Columbia Redevelopment Land Agency is a Federal agency within meaning of the Federal Tort Claims Act, and suits based on torts allegedly committed by the Agency or its employees acting in an official capacity are maintainable, if at all, under the Tort Claims Act, and must name the United States as defendant. *C. R. Goddard* v. *District of Columbia Redevelopment Land Agency etc.* (1961, 287 F. 2d 343, 109 U.S. App. D.C. 304).

§ 5–715. Appropriations authorized.

NOTES TO DECISIONS

1. Tort Actions

The District of Columbia Redevelopment Land Agency is a Federal agency within meaning of the Federal Tort Claims Act, and suits based on torts allegedly committed by the Agency or its employees acting in an official capacity are maintainable, if at all, under the Tort Claims Act, and must name the United States as defendant. *C. R. Goddard* v. *District of Columbia Redevelopment Land Agency etc.* (1961, 287 F. 2d 343, 109 U.S. App. D.C. 304).

TITLE 6.—HEALTH AND SAFETY

Chapter 1.—HEALTH DEPARTMENT—ORGANIZATION

§ 6–112. Certain ordinances, rules, and regulations of Board of Health, legalized and made valid.

PARTIAL REPEAL

Commissioners order dated Aug. 14, 1962, number 62–1459, repealed sections 12 and 12a of the Health Regulation known as "An Ordinance to prevent the sale of unwholesome food in the cities of Washington and Georgetown", as amended, be and they are hereby repealed. This repeal was made pursuant to authority of section 6–114.

TITLE 7.—HIGHWAYS, STREETS, BRIDGES

Chapter 6.—REPAIR AND CONSTRUCTION

§ 7–608. Improvement and repair of alleys and sidewalks, and construction of sewers and sidewalks under permit system—Hearing—Notice—Cost—Assessment, collection, liability for sale, deposit.

The Commissioners of the District of Columbia are authorized and empowered, whenever in their judgment the public health, safety, or comfort require it, or whenever application shall be made therefor, accompanied by a deposit equal to one-half the estimated cost of the work, to improve and repair alleys and sidewalks, and to construct sewers and sidewalks in the District of Columbia of such form and materials as they may determine, and to pay the total cost of such work from appropriations for assessment and permit work.

Said commissioners shall give notice by advertisement, twice a week for two weeks in some newspaper published in the city of Washington, of any assessment work proposed to be done by them under this section, designating the location and the kind of work to be done, specifying the kind of materials to be used, the estimated cost of the improvement, and fixing a time and place when and where property-owners to be assessed can appear and present objections thereto, and for hearing thereof. One-half of the total cost of the assessment work herein provided for, including the expenses of the assessment, shall be charged against and become a lien upon abutting property, and an assessment therefor shall be levied pro rata according to the linear frontage of said property: *Provided,* That no such assessment shall be levied against abutting property for the cost of repairing alleys or sidewalks when the damage requiring such repair is caused by the growth of roots of trees on public space or the cause of such damage is otherwise beyond the control of the owner of such property.

* * * * *

(Sept. 25, 1962, 76 Stat. 598, Pub. L. 87–700, § 1.)

AMENDMENTS

Section 1 of act Sept. 25, 1962, amended the second sentence in the second paragraph of the section to relieve abutting property owners from assessment for repairs to alleys and sidewalks where the cause of the damage is beyond their control or where it is caused by roots of trees on public space. The language of the amendment is set out above beginning with the words "said property" preceding the proviso clause and ending with "such property" at the end of the proviso clause.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 3 of act Sept. 25, 1962, provides: "This Act shall take effect ten days after its approval."

APPLICABILITY OF 1962 AMENDMENT

Section 2 of act Sept. 25, 1962, provides: "That the amendment made by the first section of this Act [set out in this section] shall apply to repairs to alleys or to sidewalks the completion of which repairs shall occur on or after the effective date of this Act."

Chapter 8.—REMOVAL OF SNOW AND ICE

§ 7–802. Removal by Commissioners from walks adjacent to public buildings—Making safe with sand and ashes.

NOTES TO DECISIONS

6. Liability

Primary duty of clearing snow and ice from sidewalk along South Building of Department of Agriculture in District of Columbia was on United States, and therefore District of Columbia was not liable for injuries sustained by employee of Department of Agriculture in fall on icy sidewalk. *D. J. Daniels-Lumley* v. *United States et al.* (1962, 306 F. 2d 769, — U.S. App. D.C. —).

§ 7–803. Removal from sidewalks adjacent to Federal buildings—Making safe with sand or ashes.

NOTES TO DECISIONS

2. Responsibility for removal

Primary duty of clearing snow and ice from sidewalk along South Building of Department of Agriculture in District of Columbia was on United States, and therefore District of Columbia was not liable for injuries sustained by employee of Department of Agriculture in fall on icy sidewalk. *D. J. Daniels-Lumley* v. *United States et al.* (1962, 306 F. 2d 769, — U.S. App. D.C. —).

Chapter 12.—MISCELLANEOUS

§ 7–1218. Branch tracks, spurs, or sidings authorized—Plats or charts kept on file.

* * * * *

BRANCH SIDINGS OVER FIRST STREET SOUTHWEST

That the Philadelphia, Baltimore, and Washington Railroad Company is hereby authorized to construct, maintain, and operate at grade two branch sidings from its present tracks in square 607 over First Street to square 663 between S and T Streets Southwest, Washington, D.C. Such sidings shall be constructed in accordance with plans approved by the Commissioners of the District of Columbia.

SEC. 2. Congress reserves the right to alter, amend, or repeal this Act. (Sept. 26, 1961, 75 Stat. 686, Pub. L. 87–325, §§ 1, 2.)

§ 7–1235. Employment of temporary special and technical employees—Report by Commissioners—Tenure of employment.

CROSS REFERENCE

Provisions establishing standards for hours of work and overtime pay of laborers and mechanics employed on work done under contract for, or with the financial aid of, the United States, for any territory, or for the District of Columbia, see Title 40, §§ 327 to 332, and Title 5, § 673c of the U.S. Code.

§ 7–1236. Employment of temporary laborers and mechanics—Per diem rate of pay.

CROSS REFERENCE

Provisions establishing standards for hours of work and overtime pay of laborers and mechanics employed on work done under contract for, or with the financial aid of, the United States, for any territory, or for the District of Columbia, see Title 40, §§ 327 to 332, and Title 5, § 673c of the U.S. Code.

§ 7–1237. Employment of horses, horse-drawn vehicles, and motortrucks—Report by Commissioners—Temporary use under special conditions.

CROSS REFERENCE

Provisions establishing standards for hours of work and overtime pay of laborers and mechanics employed on

90003 O—63——5

work done under contract for, or with the financial aid of, the United States, for any territory, or for the District of Columbia, see Title 40, §§ 327 to 332, and Title 5, § 673c of the U.S. Code.

§ 7–1238. Employment of personnel and equipment to execute work payable from miscellaneous trust fund deposits—Delegation of hiring authority by Commissioners.

CROSS REFERENCE

Provisions establishing standards for hours of work and overtime pay of laborers and mechanics employed on work done under contract for, or with the financial aid of, the United States, for any territory, or for the District of Columbia, see Title 40, §§ 327 to 332, and Title 5, § 673c of the U.S. Code.

Chapter 14.—PUBLIC AIRPORT

§ 7–1401. Construction and operation of airport authorized.

Administrator of the Federal Aviation Agency (hereinafter referred to as the "Administrator") is hereby authorized and directed to construct, protect, operate, improve, and maintain within or in the vicinity of the District of Columbia, a public airport (including all buildings and other structures necessary or desirable therefor). (Sept. 7, 1950, 64 Stat. 770, ch. 905, § 1; Aug. 23, 1958, 72 Stat. 807 Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, amended the section by striking the words "Secretary of Commerce" and inserting in lieu the words "Administrator of the Federal Aviation Agency" and by striking the word "Secretary" and inserting in lieu the word "Administrator".

§ 7–1402. Selection of site.

For the purpose of carrying out this chapter, the Administrator is authorized to acquire, by purchase, lease, condemnation, or otherwise (including transfer with or without compensation from Federal agencies or the District of Columbia, or any State or political subdivision thereof), such lands and interests in lands and appurtenances thereto, including avigation easements or air-space rights, as may be necessary or desirable for the construction, maintenance, improvement, operation and protection of the airport: *Provided,* That before making commitments for the acquisition of land, or the transfer of any lands, the Administrator shall consult and advise with the National Capital Park and Planning Commission as to the conformity of the proposed location with the Commission's comprehensive plan for the National Capital and its environs, and said Commission shall, upon request, submit a report and recommendations thereon within thirty days: *Provided further,* That the choice of site by the Administrator shall be made only after consultation with the governing body in the county in which the airport is to be located, with respect to the suitability of the site to be selected, and its possible impact on the vicinity. (Sept. 7, 1950, 64 Stat. 771, ch. 905, § 2; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, amended section by striking the word "Secretary" wherever same appeared and inserting in lieu the word "Administrator".

TRANSFER OF FUNCTIONS

"National Capital Planning Commission" was substituted for "National Capital Park and Planning Commission" in view of act June 6, 1924, ch. 270, § 9, as added July 19, 1952, 66 Stat. 790, ch. 949, § 1, which transferred the functions, powers, and duties of the National Capital Park and Planning Commission to the National Capital Planning Commission. See section 1–1009.

§ 7–1403. Acquisition and construction of facilities.

For the purposes of this chapter, the Administrator is empowered to acquire, by purchase, lease, condemnation, or otherwise (including transfer with or without compensation from Federal agencies or the District of Columbia, or any State or political subdivision thereof), rights-of-way or easements for roads, trails, pipe lines, power lines, railroad spurs, and other similar facilities necessary or desirable for the construction or proper operation of the airport.

The Administrator is authorized to construct any streets, highways, or roadways (including bridges) as may be necessary to provide access to the airport from existing streets, highways, or roadways. Upon completion of construction of any street, highway, or roadway within the District of Columbia, such street, highway, or roadway shall be transferred to the District of Columbia without charge and thereafter shall be maintained by the District of Columbia. Upon construction of any street, highway, or roadway within a State or political subdivision thereof, such street, highway, or roadway may be transferred to such State or political subdivision thereof, without charge, on the condition that such street, highway, or roadway thereafter be maintained as a public street, highway, or roadway by such State or political subdivision thereof. (Sept. 7, 1950, 64 Stat. 771, ch. 905, § 3; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, struck out the word "Secretary" wherever same appeared in the section and substituted the word "Administrator" in lieu thereof.

NOTES TO DECISIONS

1. Standing to sue

Where none of plaintiff's land was sought to be condemned, his suit to enjoin taking of property, more than one-half mile distant from his own land, for use as airport, did not present a "justiciable controversy", and his suit was premature. *Jasper* v. *Sawyer et al.* (1953, 92 U.S. App. D.C. 94, 205 F. 2d 700).

§ 7–1404. Maintenance and operation.

The Administrator shall have control over and responsibility for the care, operation, maintenance, improvements, and protection of the airport, together with the power to make and amend such rules and regulations as he may deem necessary to the proper exercise thereof: *Provided,* That the authority herein contained may be delegated by the

Administrator to such official or officials of the Federal Aviation Agency as the Administrator may designate. (Sept. 7, 1950, 64 Stat. 771, ch. 905, § 4; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, struck out the word "Secretary" wherever same appeared and substituted the word "Administrator," also struck out the words "Department of Commerce" and inserted in lieu the words "Federal Aviation Agency".

§ 7–1405. Lease of space or property.

The Administrator is empowered to lease under such conditions as he may deem proper and for such periods as may be desirable space or property within or upon the airport for purposes essential or appropriate to the operation of the airport: *Provided,* That no lease for the use of any hangar or space therein shall extend for a period exceeding three years. (Sept. 7, 1950, 64 Stat. 771, ch. 905, § 5; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, substituted the word "Administrator" for "Secretary".

§ 7–1406. Contracts for supplies and services.

The Administrator is authorized to contract with any person for the furnishing of supplies or performance of services at or upon the airport necessary or desirable for the proper operation of the airport, including but not limited to, contracts for furnishing food and lodging, sale of aviation fuels, furnishing of aircraft repairs and other aeronautical services, and such other services and supplies as may be necessary or desirable for the traveling public. No such contract, not including contracts involving the construction of permanent buildings or facilities, shall extend for a period of longer than five years, except the restaurant. The provisions of section 5 of title 41, U.S. Code, shall not apply to contracts authorized under this section, to leases authorized under section 7–1405 hereof, or to contracts for architectural or engineering services necessary for the design and planning of the airport. (Sept. 7, 1950, 64 Stat. 771, ch. 905, § 6; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, substituted the word "Administrator" for "Secretary".

§ 7–1407. Transfers of property by federal agencies.

Any executive department, independent establishment, or agency of the Federal Government or the District of Columbia, for the purposes of carrying out this chapter, is authorized to transfer to the Administrator, without compensation, upon his request, any lands, interests in lands (including avigation easements or air-space rights), buildings, property, or equipment under its control and in excess of its own requirements, which the Administrator may consider necessary or desirable for the construction, care, operation, maintenance, improvement, or protection of the airport. (Sept. 7, 1950, 64 Stat. 772, ch. 905, § 7; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, substituted the word "Administrator" for "Secretary" wherever same appeared in the section.

§ 7–1408. Authority to make arrests—Park Police patrol.

(a) The Administrator and any Federal Aviation Agency employee appointed to protect life and property on the airport, when designated by the Administrator, is hereby authorized and empowered (1) to arrest under a warrant within the limits of the airport any person accused of having committed within the boundaries of the airport any offense against the laws of the United States, or against any rule or regulation prescribed pursuant to this chapter; (2) to arrest without warrant any person committing any such offense within the limits of the airport, in his presence; or (3) to arrest without warrant within the limits of the airport any person whom he has reasonable grounds to believe has committed a felony within the limits of the airport.

(b) Any individual having the power of arrest as provided in subsection (a) of this section may carry firearms or other weapons as the Administrator may direct or by regulation may prescribe.

(c) The United States Park Police may, at the request of the Administrator, be assigned by the Secretary of the Interior, in his discretion, to patrol any area of the airport, and any members of the United States Park Police so assigned are hereby authorized and empowered to make arrests within the limits of the airport for the same offenses and in the same manner and circumstances as are provided in this section with respect to employees designated by the Administrator.

(d) The officer on duty in command of those employees designated by the Administrator as provided in subsection (a) of this section may accept deposit of collateral from any person charged with the violation of any rule or regulation prescribed under this chapter, for appearance in court or before the appropriate United States Commissioner; and such collateral shall be deposited with such United States Commissioner. (Sept. 7, 1950, 64 Stat. 772, ch. 905, § 8; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, substituted the word "Administrator" for "Secretary" wherever same appeared in subsection (a), (b), and (d); substituted "Federal Aviation Agency" for "Department of Commerce" in subsection (a) and amended subsection (c) to read as above set out.

NOTES TO DECISIONS

1. Arrest without warrant

A motorist, who had received a summons from an officer to appear before a court commissioner to answer a charge of a parking violation, could not be validly arrested without a warrant for failure to post collateral. *P. Y. Craig* v. *J. T. Cox & A. C. Doak* (D.C. Mun. App. 1961, 171 A. 2d 259).

Bail follows arrest, and is not given to avoid an arrest. *Id.*

§ 7–1409. Agreements for municipal services.

The Administrator may enter into agreements with the State, or any political subdivision thereof, in which the airport or any portion thereof is situated, for such State or municipal services as the Administrator shall deem necessary to the proper and efficient operation and protection of the airport, and he may, from time to time, agree to modifications in any such agreement: *Provided, however,* That where the charge for any such service is estab-

lished by the laws of the State, the Administrator may not pay for such service in excess of the charge so established. (Sept. 7, 1950, 64 Stat. 772, ch. 905, § 9; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, substituted the word "Administrator" for "Secretary" wherever same appeared in the section.

§ 7–1410. Penalty for violations.

Any person who knowingly and willfully violates any rule, regulation, or order issued by the Administrator under this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 or to imprisonment not exceeding six months, or to both such fine and imprisonment. (Sept. 7, 1950, 64 Stat. 772, ch. 905, § 10; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85–726, § 1402(g).)

AMENDMENT

1958—Act Aug. 23, 1958, substituted the word "Administrator" for "Secretary".

§ 7–1411. Definitions.

Unless the context otherwise requires, the definitions of the words and phrases used in this chapter shall be the definitions assigned to such words and phrases by the Civil Aeronautics Act of 1938, as amended. (Sept. 7, 1950, 64 Stat. 772, ch. 905, § 11.)

REFERENCES IN TEXT

Civil Aeronautics Act of 1938, as amended, referred to in the text, which was classified to U.S. Code, Title 49, § 401 et seq., was repealed and is now covered by U.S. Code, Title 49, § 1301 et seq.

§ 7–1412. Appropriations authorized.

There is hereby authorized to be appropriated such sum as may be necessary for the construction of the airport authorized by this chapter, and such sum shall remain available until expended. There are hereby authorized to be appropriated such other sums as may be necessary to carry out the purposes of this chapter. (Sept. 7, 1950, 64 Stat. 773, ch. 905, § 12; as amended July 11, 1958, 72 Stat. 354, Pub. L. 85–511, § 1.)

AMENDMENT

1958—Act July 11, 1958, removed the limitation on the amount authorized to be appropriated for construction.

TITLE 8.—PARKS AND PLAYGROUNDS

Chapter 1.—PARKS AND PLAYGROUNDS

§ 8–115. Transfer of jurisdiction over property between United States and District of Columbia.

Federal and District authorities administering properties within the District of Columbia owned by the United States or by the said District are authorized to transfer jurisdiction over parts or all of such properties among or between themselves for purposes of administration and maintenance under such conditions as may be mutually agreed upon: *Provided,* That prior to the consummation of any transfer hereunder such proposed transfer shall be recommended by the National Capital Planning Commission: *Provided further,* That all such transfers and agreements shall be reported to Congress by the District authorities concerned. (May 20, 1932, ch. 197, § 1, 47 Stat. 161, as amended June 6, 1924, ch. 270, § 9 as added July 19, 1952, ch. 949, § 1, 66 Stat. 790, and amended Aug. 30, 1954, ch. 1076. § 1(20), 68 Stat. 967.)

AMENDMENTS

1954—Act Aug. 30, 1954, amended section by repealing the requirement that the Federal authorities concerned should also report to Congress all transfers and agreements authorized by this section.

TRANSFER OF FUNCTIONS

Transfer of functions to National Park Service and to Administrator of General Services, see notes under section 8–108.

"National Capital Planning Commission" was substituted for "National Capital Park and Planning Commission", on authority of act July 19, 1952, which transferred functions of the latter to the former.

Reorganization Order No. 18 issued by the Board of Commissioners pursuant to Reorganization Plan No. 5 of 1952, created within the Department of General Administration an Administrative Services Office and established therein responsibility for the administration of real property owned or utilized by the Government of the District of Columbia.

TITLE 9.—PUBLIC BUILDINGS AND GROUNDS

Chapter 5.—REPAIRS AND IMPROVEMENTS

§ 9–501. Repairs and improvements—Working fund.

SIMILAR PROVISIONS

1962—Oct. 23, 1962, 76 Stat. 1155, Pub. L. 87–867, § 15.

CONTINUATION OF ACT APR. 8, 1960

Section 15 of act Sept. 21, 1961, 75 Stat. 564, Pub. L. 87–265, provided that: "limitations and legislative provisions contained in the District of Columbia Appropriations Act, 1961, shall be continued for the fiscal year 1962:"

PART II

CIVIL PROCEDURE

TITLE 11.—JUDICIARY AND JURISDICTION

Chapter 3.—UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Sec.

§ 11–306a. Jurisdiction in interstate compact water pollution disputes—Parties—Venue.

(a) The United States district courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other court of the United States or of any State of the United States, in matters in which the Supreme Court, or any other court, has original jurisdiction) of any case or controversy—

(1) which involves the construction or application of an interstate compact which (A) in whole or in part relates to the pollution of the waters of an interstate river system or any portion thereof, and (B) expresses the consent of the States signatory to said compact to be sued in a district court in any case or controversy involving the application or construction thereof; and

(2) which involves pollution of the waters of such river system, or any portion thereof, alleged to be in violation of the provisions of said compact; and

(3) in which one or more of the States signatory to said compact is a plaintiff or plaintiffs; and

(4) which is within the judicial power of the United States as set forth in the Constitution of the United States.

(b) The district courts shall leave original jurisdiction of a case or controversy such as is referred to in subsection (a) of this section, without any requirement, limitation, or regard as to the sum or value of the matter in controversy, or of the place of residence or situs or citizenship, or of the nature, character, or legal status, of any of the proper parties plaintiff or defendant in said case or controversy other than the signatory State or States plaintiff or plaintiffs referred to in paragraph (3) of subsection (a) of this section: *Provided,* That nothing in this section shall be construed as authorizing a State to sue its own citizens in said courts.

(c) The original jurisdiction conferred upon the district courts by this section shall include, but not be limited to, suits between States signatory to such interstate compact: *Provided,* That nothing in this section shall be construed as authorizing a State to sue another State which is not a signatory to such compact in said courts.

(d) The venue of such case or controversy shall be as prescribed by law: *Provided,* That in addition thereto, such case or controversy may be brought in in any judicial district in which the acts of pollution complained of, or any portion thereof, occur, regardless of the place or places of residence, or situs, of any of the parties plaintiff or defendant. (Oct. 15, 1962, 76 Stat. 957, Pub. L. 87–830, § 1.)

SEPARABILITY

Section 2 of act Oct. 15, 1962, provided as follows: "If any part or application of this Act [Sec. 11–306a and this note] should be declared invalid by a court of competent jurisdiction, said invalidity shall not affect the other parts, or the other applications, of said Act."

§ 11–326. Enforcement of decrees.

NOTES TO DECISIONS

4. Contempt

Statute precluding imprisonment for mere failure to pay money had no application to contempt proceeding. *In re E. L. Ferrell and N. A. Perry* (D.C. Mun. App. 1961, 172 A. 2d 555).

11. Parentage proceedings

Part of Juvenile Court Act establishing procedures to determine parentage in order to insure support for unacknowledged illegitimate children did not pre-empt jurisdiction of Domestic Relations Branch of Municipal Court over suit by or on behalf of acknowledged, though illegitimate, child against his natural father. *C. Johnson v. E. Johnson et al.* (D.C. Mun. App. 1962, 183 A. 2d 916).

Proceeding to determine parentage as primary basis of establishing duty to support illegitimate child is quasi-criminal in some of its aspects and lies exclusively in juvenile court. *Id.*

Chapter 5.—PROBATE COURT

§ 11–512. Limitation on jurisdiction—Enforcement of decrees and orders.

JURISDICTION

The bankruptcy court had exclusive jurisdiction to determine title to decedent's liquor store which administratrix had allowed bankrupt to control and operate, and such determination would not interfere with jurisdiction of probate court. *N. M. White, Personally etc. v. M. F. Schwartz, Trustee etc.* (1962, 302 F. 2d 916, 112 U.S. App. D.C. 331).

Chapter 7.—COURT OF GENERAL SESSIONS AND DISTRICT OF COLUMBIA COURT OF APPEALS

SUBCHAPTER I.—THE DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

Sec.

SUBCHAPTER III.—THE DISTRICT OF COLUMBIA COURT OF APPEALS

SUBCHAPTER I.—THE DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

§ 11–738. Forcible entry and detainer—Plea of title—Undertaking.

NOTES TO DECISIONS

7. Undertaking

Rule requiring that defendant who claims title to premises in a possessory action "accompany" his plea with an undertaking and that action then be certified to the United States District Court does not preclude Municipal Court from allowing an enlargement of 4-day period for filing such undertaking. *J. G. Sutton* v. *E. B. Jones* (D.C. Mun. App. 1962, 180 A. 2d 470).

§ 11–749. Deposits for jury trials—When earned.

SIMILAR PROVISIONS

1962—Oct. 23, 1962, 76 Stat. 1155, Pub. L. 87–867, § 15.

CONTINUATION OF ACT APR. 8, 1960

Section continued by provisions of section 15 of act Sept. 21, 1961, 75 Stat. 564, Pub. L. 87–265. See note to section 9–501.

§ 11–751a. Change of name of Municipal Court to District of Columbia Court of General Sessions.

The court established by section 11–751 hereafter shall be known as the "District of Columbia Court of General Sessions". Whenever reference is made in any Act of Congress (other than this Act or the amendments made by this Act) or in any regulation to the Municipal Court for the District of Columbia, such reference shall be held to be a reference to the District of Columbia Court of General Sessions. (Oct. 23, 1962, 76 Stat. 1171, Pub. L. 87–873, § 1.)

REFERENCE IN TEXT

"This Act", act Oct. 23, 1962, referred to in text, means this section, the amendments to sections 11–755a, 11–756 (a) and (c), the repeal of section 11–1520, the amendments to section 11–1520a(a), the enactment of section 11–1520a(b) and section 11–771a.

EFFECTIVE DATE

1962—Section 7 of act Oct. 23, 1962, provided as follows: "This Act [section 11–751a, amendments of section 11–755a, 11–756 (a) and (c), the repeal of section 11–1520, the amendment of section 11–1520a(a), the enactment of subsection 11–1520a(b) and section 11–771a] shall take effect on the first day of the first month which begins after the sixtieth day following the date of its enactment."

§ 11–752. Composition—Appointments—Chief judge—Seal—Court of record.

The court shall consist of a chief judge and fifteen associate judges appointed by the President with the advice and consent of the Senate.

The court shall adopt and have a seal, and shall be a court of record. (Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; Oct. 25, 1949, 63 Stat. 887, ch. 706, § 1; Apr. 11, 1956, 70 Stat. 112, ch. 204, § 103(a); Aug. 24, 1962, 76 Stat. 398, Pub. L. 87–596, § 1(a).)

AMENDMENTS

Section 1(a) amended the first sentence of this section to read as above set out. This amendment requires the appointment of the chief judge as well as the other judges, to be with the advice and consent of the Senate.

APPOINTMENT OR DESIGNATION OF JUDGES OR CHIEF JUDGES PRIOR TO AUG. 24, 1962

Section 3 of act Aug. 24, 1962, provides as follows: "Nothing contained in any amendment made by this Act shall be construed as affecting any appointment or designation as a judge or chief judge of the municipal court for the District of Columbia, the municipal court of appeals for the District of Columbia, or the juvenile court of the District of Columbia made prior to the date of enactment of this Act."

§ 11–755. Jurisdiction—Criminal, civil, small claims, conciliation and domestic relations branch—Exclusive in certain actions—Services of process—Judgments—Duration—Docketing—Fees.

(a) The District of Columbia Court of General Sessions, as established by this Act, shall consist of the criminal, civil, and small claims and conciliation, and domestic relations branches. The court and each judge thereof shall have and exercise the same powers and jurisdiction as were heretofore had or exercised by the Municipal Court for the District of Columbia or the judges thereof on the day before the effective date of this amendatory subsection, and in addition the said court shall have exclusive jurisdiction of civil actions commenced after the effective date of this amendatory subsection, including such actions against executors, administrators and other fiduciaries, in which the claimed value of personal property or the debt or damages claimed, does not exceed the sum of $10,000 exclusive of interest and costs, and, in addition, shall have jurisdiction of all cross-claims and counterclaims interposed in all actions over which it has jurisdiction regardless of the amount involved: *Provided, however,* That nothing herein shall deprive the United States District Court for the District of Columbia of jurisdiction over counterclaims, cross-claims, or any other claims whether or not arising out of the same transaction or occurrence and interposed in actions over which the United States District Court for the District of Columbia has jurisdiction. The District of Columbia Court of General Sessions shall also have jurisdiction over all cases properly pending in the Municipal Court for the District of Columbia on the effective date of this amendatory subsection.

* * * * *

(Apr. 1, 1942, 56 Stat. 192, ch. 207, § 4; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; Sept. 14, 1961, 75 Stat. 513, Pub. L. 87–242, § 1; Oct. 23, 1962, 76 Stat. 1171, Pub. L. 87–873, § 2.)

CHANGE OF NAME

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions". See section 11–751a.

Act June 25, 1948, 62 Stat. 991, ch. 646, § 32(b), eff. Sept. 1, 1948, as amended by act May 24, 1949, 63 Stat. 107, ch. 139, § 127, substituted "United States District Court for the District of Columbia" for "District Court of the United States for the District of Columbia."

REFERENCES IN TEXT

"This Act," act Oct. 23, 1962, means the amendments of subsection (a), sections 11–756 (a) and (c), the enactment of section 11–751a, the repeal of section 11–1520, the amendment of section 11–1520a(a), the enactment of section 11–1520a(b), and section 11–771a.

"Effective date of this Act", referred to in the text, means the effective date of act Apr. 1, 1942. See note under this section.

AMENDMENTS

1962—Section 2 of act Oct. 23, 1962, amended subsection (a) so as to include small claims, conciliation and domestic relations branches as parts of the District of Columbia Court of General Sessions, and increased the jurisdiction of the court to $10,000. For comparison of former subsection (a) see main volume of the code and first supplement thereto.

1961—Act Sept. 14, 1961, amended the second sentence of subsection (a) to read as above set out. The amendment enlarges the jurisdiction of the court over cross-claims and counterclaims in all actions over which it has jurisdiction, regardless of the amount involved.

EFFECTIVE DATE OF 1962 AMENDMENT

See note to section 11–751a.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 3 of act Sept. 14, 1961, provided as follows: "This Act shall take effect thirty days after enactment."

EFFECTIVE DATE

Section effective three months after Apr. 1, 1942, see section 14 of act Apr. 1, 1942, set out as a note under section 11–751, in the main volume.

APPLICABILITY OF 1961 AMENDMENT

Section 2 of act Sept. 14, 1961, provided as follows: "The amendment made by the first section of this Act [subsection (a)] shall apply only with respect to actions instituted on and after the date of enactment of this Act."

CROSS REFERENCE

Libel actions involving seized gambling property, see § 22–1505.

NOTES TO DECISIONS

7. Conferring of jurisdiction

Although jurisdictional issue was not raised, jurisdiction of subject matter could not be assumed by court nor conferred upon it by consent or silence of parties. *J. F. Paton and M. S. Paton* v. *District of Columbia* (D.C. Mun. App. 1962, 180 A. 2d 844).

Jurisdictional issue may be raised sua sponte by reviewing court. *Id.*

15. Equitable powers

Municipal Court for District of Columbia, under its equity powers, lacked jurisdiction to entertain cause of action by property owners to cancel special assessment by District for certain paving improvements to sidewalks and alley. *J. F. Paton and M. S. Paton* v. *District of Columbia* (D.C. Mun. App. 1962, 180 A. 2d 844).

Municipal Court of District of Columbia has such equitable power as may be necessary to fully and completely exercise its exclusive jurisdiction of civil action in which claimed value of personal property or debt or damages claimed does not exceed $3,000. *Id.*

33. Res Judicata

Where insured brought personal injury suit in United States District Court for the District of Columbia for damages in excess of $3,000, and insurer, which had paid less than $3,000 in property damages, could not present its claim in District Court because of jurisdictional limitations and it consented to stay of proceedings in Municipal Court on its claim against same defendant, District Court judgment adverse to insured was not determinative of insurer's rights as subrogee under its policy and judgment was not res judicata of pending suit in Municipal Court. *Emmco Insurance Co.* v. *M E. Brown* (D.C. Mun. App. 1962, 178 A. 2d 429).

34. Review

Reviewing court may affirm proper dismissal of case on appeal for different reasons from those adopted by trial court. *J. F. Paton and M. S. Paton* v. *District of Columbia* (D.C. Mun. App. 1962, 180 A. 2d 844).

§ 11–756. Transfer of actions from United States District Court for the District of Columbia—Amount of judgment—Power to prescribe rules and procedure—Attendance of witnesses.

(a) If, in any action, other than an action for equitable relief, pending on the effective date of this amendatory subsection or thereafter commenced in the United States District Court for the District of Columbia, it shall appear to the satisfaction of the court at or subsequent to any pretrial hearing but prior to trial thereof that the action will not justify a judgment in excess of $10,000, the court may certify such action to the District of Columbia Court of General Sessions for trial. The pleadings in such action, together with a copy of the docket entries and of any orders theretofore entered therein, shall be sent to the clerk of the said Court of General Sessions, together with any deposit for costs, and the case shall be called for trial in that court promptly thereafter; and shall thereafter be treated as though it had been filed originally in the said Court of General Sessions, except that the jurisdiction of that court shall extend to the amount claimed in such action, even though it exceed the sum of $10,000.

* * * * *

(c) The District of Columbia Court of General Sessions shall have the power to compel the attendance of witnesses by attachment and any judge thereof shall have the power in any case or proceeding whether civil or criminal to punish for disobedience of any order, or contempt committed in the presence of the court by a fine not exceeding $50 or imprisonment not exceeding thirty days. At the request of any party subpenas for attendance at a hearing or trial in the District of Columbia Court of General Sessions shall be issued by the clerk of the said court. A subpena may be served at any place within the District of Columbia, or at any place without the District of Columbia that is within one hundred miles of the place of the hearing or trial specified in the subpena. The form, issuance and manner of service of a subpena shall be as prescribed by Rule 45 of the Federal Rules of Civil Procedure. (Apr. 1, 1942, 56 Stat. 193, ch. 207, § 5; June 29, 1953, 67 Stat. 108, ch. 159, § 410; July 26, 1956, 70 Stat. 676, ch. 744, § 1; Oct. 23, 1962, 76 Stat. 1171, Pub. L. 87–873, §§ 3, 4.)

AMENDMENTS

Section 3 of act Oct. 23, 1962, amended subsection (a) as above set out. Primarily the amendments consist of the omission of the words "any time" in the first sentence and the insertion at that point of the words "or subsequent to any pretrial hearing"; substituting District of Columbia Court of General Session, in lieu of the Municipal Court, and changing $3,000 to $10,000.

Section 4 of act Oct. 23, 1962, amended subsection (c) as above set out. The amendment of the section consists of the insertion of the new name of the court and the omission of the words "from any part of the District of Columbia", and the addition of the last three sentences.

CHANGE OF NAME

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions".

EFFECTIVE DATE OF 1962 AMENDMENT

See note to section 11–751a.

NOTES TO DECISIONS

4.50. Certification "prior to trial"

Action which had been originated in district court was certified to municipal court "prior to trial" within removal statute even though parties had already appeared before district court judge for trial and even though plaintiff had already made his opening statement when defendant moved for certification to municipal court. *R. H. Stringfellow, Administrator etc.* v. *D. Broders* (D.C. Mun. App. 1962, 181 A. 2d 340).

8. Contempt

Trial court did not abuse discretion in imposing fine on attorney, despite his apology, for absenting himself from matter assigned and ready for trial. *In re J. G. Saul* (D.C. Mun. App. 1961, 171 A. 2d 751).

28. Instructions

Municipal court, on trial of case certified from district court, properly instructed jury that because of such certification $3,000 limit normally applicable to verdict was not applicable and properly refused to allow counsel for defendants to explain that case was certified because of district judge's opinion that case would not justify judgment in excess of $3,000. *The Evening Star Newspaper Co.* v. *R. H. Gray and C. H. Gray* (D.C. Mun. App. 1962, 179 A. 2d 377).

If jury is correctly instructed as to measure of damages, mention of the ad damnum as a limitation on recovery is not improper. *Id.*

SUBCHAPTER II.—DOMESTIC RELATIONS BRANCH, DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

§ 11–762. Jurisdiction.

NOTES TO DECISIONS

8. Jurisdiction

"Children," within statute providing that Domestic Relations Branch of Municipal Court shall have exclusive jurisdiction over actions to enforce support of minor children, includes illegitimate children and Domestic Relations Branch had jurisdiction of action to enforce order directing him to support minor children born out of wedlock, where natural father had acknowledged paternity. *C. Johnson* v. *E. Johnson et al.* (D.C. Mun. App. 1962, 183 A. 2d 916).

Statute creating Domestic Relations Branch and providing that the United States District Court for the District of Columbia would not be deprived of jurisdiction to enforce judgments and orders in pending actions requires that new cases are to go before new court, and cases filed with the United States District Court before cutoff date were to remain and be decided there. *M. R. Hatton* v. *L. D. Hatton* (D.C. Mun. App. 1961, 171 A. 2d 256).

Wife who had been awarded divorce decree in United States District Court for District of Columbia, before enactment of statute creating Domestic Relations Branch, could not bring subsequent action against husband in the Domestic Relations Branch for separate maintenance and support of children. *Id.*

Exclusive jurisdiction of suit against divorced husband to enforce support for wife and minor son was in Domestic Relations Branch of Municipal Court, rather than District Court. *S. S. Wagner* v. *C. A. Wagner* (1961, 293 F. 2d 533, 110 U.S. App. D.C. 345).

For purposes of jurisdiction in suits to enforce support, divorced wife is deemed to be a wife. *Id.*

District Court should not have dismissed complaint to enforce support for divorced wife and minor son, but should have transferred the case to the Municipal Court for trial. *Id.*

At least in transition period following transfer of jurisdiction from one court to another, a court should not dismiss suit which can properly be transferred. *Id.*

The Domestic Relations Branch of the Municipal Court for the District of Columbia, rather than the Civil Division, had jurisdiction of action by wife for support arrearages for herself and son under written separation agreement. *J. Gaissert* v. *C. Gaissert* (D.C. Mun. App. 1961, 174 A. 2d 195).

Domestic Relations Branch of Municipal Court of District of Columbia had exclusive jurisdiction and equitable power to adjudicate divorced wife's claim for enforcement of separation agreement provision relating to benefits for children, as support or claims against husband's property, even though action was instituted before enactment of statute clarifying jurisdiction. *V. S. David* v. *L. S. Blumenthal* (1961, 292 F. 2d 765, 110 U.S. App. D.C. 272).

§ 11–766. Rules.

NOTES TO DECISIONS

4.50. Self-incrimination

Municipal Court for District of Columbia, Domestic Relations Branch, properly permitted defendant in annulment action to invoke Fifth Amendment privilege against self-incrimination in support of his refusal to respond to requests for admissions seeking his admission that he was married to third person two years before his marriage to plaintiff, that to his personal knowledge his first wife was still living, that marriage had not been dissolved by divorce or annulment, that he had received no notice that such proceedings had been instituted by his first wife, and that he was in fact still married to her at time of purported marriage to plaintiff. *Joann Mayo* v. *Raymond Ford* (D.C. Mun. App. 1962, 184 A. 2d 38).

SUBCHAPTER III.—THE DISTRICT OF COLUMBIA COURT OF APPEALS

§ 11–771. Creation—Court of record—Seal—Judges—Number — Appointments — Qualifications — Tenure—Salaries—Oath—Disability—Clerk—Appointment and tenure—Duties—Salary—Other employees—Salaries.

* * * * *

The said court shall consist of a chief judge and two associate judges appointed by the President with the advice and consent of the Senate, two of whom shall constitute a quorum.

* * * * *

(As amended Aug. 24, 1962, 76 Stat. 398, Pub. L. 87–596, § 1(b).)

APPOINTMENT OR DESIGNATION OF JUDGES OR CHIEF JUDGES PRIOR TO AUG. 24, 1962

Section 3 of act Aug. 24, 1962, provides as follows: "Nothing contained in any amendment made by this Act shall be construed as affecting any appointment or designation as a judge or chief judge of the municipal court for the District of Columbia, the municipal court of appeals for the District of Columbia, or the juvenile court of the District of Columbia made prior to the date of enactment of this Act."

AMENDMENTS

Section 1(b) of act Aug. 24, 1962, amended the third sentence of the section to read as above set out. This amendment requires that the appointment of the chief judge be with the advice and consent of the Senate.

§ 11–771a. Change of name of The Municipal Court of Appeals for the District of Columbia to "District of Columbia Court of Appeals."

The court established by section 11–771, hereafter shall be known as the "District of Columbia Court of Appeals". Wherever reference is made in any Act of Congress (other than this Act) or in any regulation to the Municipal Court of Appeals for the District of Columbia, such reference shall be held to be a reference to the District of Columbia Court of Appeals. (Oct. 23, 1962, 76 Stat. 1172, Pub. L. 87–883, § 6.)

REFERENCE IN TEXT

"This Act," act Oct. 23, 1962, referred to in text, means this section, section 11–751a, the amendments to sections 11–755(a), 11–756 (a) and (c), the repeal of section 11–1520, the amendment of section 11–1520a(a) and the enactment of subsection (b) of section 11–1520a.

EFFECTIVE DATE

See note to section 11–751a.

§ 11–772. Right to appeal—Appeal from decisions of various boards and commissions—Final order or judgment—Interlocutory orders—Appeals to United States Court of Appeals for the District of Columbia—Procedure—Printing of record or briefs on appeal—Scope of review—Retroactive effect.

CHANGE OF NAME

Act Oct. 23, 1962, section 6, eff. Jan. 1, 1963, changed the name of the Municipal Court of Appeals for the District of Columbia, to "District of Columbia Court of Appeals". See section 11–771a.

NOTES TO DECISIONS

2. Abuse of discretion

Penalty of suspension or revocation of license, to be imposed upon a broker guilty of conduct in violation of statute, was a matter wholly within discretionary power of real estate commission. *P. R. Kelley* v. *Real Estate Commission of the District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 415).

4. Allowance of appeal

Municipal Court of Appeals' denial of allowance of appeal constituted affirmance of judgment of conviction, and trial court could not thereafter vacate and set aside judgment. *District of Columbia* v. *Bosley* (D.C. Mun. App. 1961, 173 A. 2d 218).

Municipal Court of Appeals takes jurisdiction in order to determine whether appeal will be allowed when application for allowance of appeal is filed. *Id.*

22. Evidence

Evidence sustained finding of real estate commission, which revoked broker's real estate license, that broker in violation of statute made a substantial misrepresentation, and engaged in conduct which constituted fraudulent and dishonest dealing. *P. R. Kelley* v. *Real Estate Commission of the District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 415).

Appellant had burden of proving that judgment was plainly wrong or without evidence to support it. *G. W. Knight et ano.* v. *E. Sarbov etc., et al.* (D.C. Mun. App. 1961, 174 A. 2d 194).

32. Misrepresentation

Record on review by Municipal Court of Appeals sustained decision of Real Estate Commission suspending petitioner's license as a real estate broker on the grounds that she had made a substantial misrepresentation and had demonstrated such unworthiness to act as broker as to endanger interests of the public. *D. B. Quander* v. *The Real Estate Commissioners of the District of Columbia* (D.C. Mun. App. 1962, 179 A. 2d 386).

In reviewing ruling of Real Estate Commission suspending broker's license, Municipal Court of Appeals was bound to credit testimony adverse to license holder. *Id.*

43. Persons entitled to appeal

Government could appeal, as of right, from order, entered without authority, vacating judgment of conviction. *District of Columbia* v. *M. F. Bosley* (D.C. Mun. App. 1961, 173 A. 2d 218).

56. Scope of review

It is not function of Municipal Court of Appeals for the District of Columbia to determine whether finding of trial court on an issue of fact is right or to justify the finding. *T. L. Ashley* v. *M. M. Ashley* (D.C. Mun. App. 1962, 179 A. 2d 905).

Whether husband was father of child born to his wife after they had been separated and lived apart for several years was an issue depending essentially on credibility to be accorded to parties and was a matter entirely within province of trial court. *Id.*

Chapter 8.—SMALL CLAIMS AND CONCILIATION BRANCH OF MUNICIPAL COURT

§ 11–804. Jurisdiction—Limited—Exclusive in certain actions—Authority of judges—Compensation.

(a) Said branch shall have exclusive jurisdiction over all cases within the jurisdiction of the court in which the amount of the plaintiff's claim or the claimed value of personal property in controversy does not exceed $150 exclusive of interest, attorneys' fees, protest fees, and costs. Said jurisdiction shall not include actions for recovery of the possession of real estate, whether or not such actions include a claim for arrears of rent, or personalty, or both arrears of rent and personalty.

* * * * *

(Mar. 5, 1938, 52 Stat. 103, ch. 43, § 4; Sept. 6, 1961, 75 Stat. 470, Pub. L. 87–203, § 1.)

AMENDMENT

1961—Act Sept. 6, 1961, Pub. L. 87–203, struck out "$50" in subsection (a) and inserted in lieu thereof "$150", thus increasing the jurisdiction of the court to $150.

CHANGE OF NAME

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions". See section 11–751a.

Chapter 9.—JUVENILE COURT

SUBCHAPTER I.—GENERAL PROVISIONS

SUBCHAPTER I.—GENERAL PROVISIONS

§ 11–904. Court of record—Seal—Oaths.

Said court shall be a court of record. The court shall have a seal, and the judges or acting judges thereof shall have power to administer oaths and affirmations. (June 1, 1938, 52 Stat. 596, ch. 309, § 3; Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(b).)

AMENDMENT

1962—Act Mar. 9, 1962, amended the section by changing "judge" to "judges" in two places.

§ 11–906. Application of chapter and definitions.

AMENDMENT

1962—Act Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(d) amended subsection (b) clause (2) by changing the words "the judge" to read "a judge".

NOTES TO DECISIONS

3. Construction

Petition alleging that child had been using narcotics and associating with narcotic addict was sufficient to give juvenile court jurisdiction over child. *In the matter of R. A. Nichols* (D.C. Mun. App. 1962, 179 A. 2d 915).

6. Evidence

Evidence in juvenile court proceeding sustained finding of court's jurisdiction over infant who disclosed signs of narcotics use, and admitted narcotics use. *In the matter of R. A. Nichols* (D.C. Mun. App. 1962, 179 A. 2d 915).

§ 11–907. Jurisdiction—Original and exclusive.

NOTES TO DECISIONS

3. Confessions

Damaging admissions by juvenile while in police custody and before juvenile court's waiver of exclusive jurisdiction should be excluded from evidence in criminal proceeding. *W. L. Harling* v. *United States* (1961, 295 F. 2d 161, 111 U.S. App. D.C. 174).

§ 11–908. Information—Investigation—Petition—Contents.

NOTES TO DECISIONS

Investigation 4
Jurisdiction 6
Nature of proceedings 7

4. Investigation

Waiver of Juvenile Court's jurisdiction over accused depends on full investigation by Juvenile Court, and petition-summons procedure is required only when director of social work of Juvenile Court finds, after investigation that Juvenile Court jurisdiction should be acquired. *J. L. Green* v. *United States* (1962, 308 F. 2d 303, — U.S. App. D.C. —).

Failure of Juvenile Court to order filing of petition followed by issuance and service of summons did not invalidate Juvenile Court's waiver of jurisdiction over accused where there had been a full investigation before waiver and director of social work of Juvenile Court recommended waiver of jurisdiction. *Id.*

Accused who claims that full investigation was not made by Juvenile Court before its waiver of jurisdiction could make that contention in District Court which upon sufficient allegations should conduct necessary proceedings to determine whether such investigation was made and whether accused should nevertheless be afforded parens patriae treatment provided in Juvenile Court. *Id.*

Where accused's conviction was reversed for plain error and accused claimed that Juvenile Court's waiver of jurisdiction over him was invalid, on remand District Court should make available for inspection by accused's counsel all pertinent records of Juvenile Court with due regard to necessity of keeping secret any specific parts or sources thereof and such records could be sealed and included in record on any further appeal. *Id.*

6. Jurisdiction

Evidence in juvenile court proceeding sustained finding of court's jurisdiction over infant who disclosed signs of narcotics use, and admitted narcotics use. *In the matter of R. A. Nichols* (D.C. Mun. App. 1962, 179 A. 2d 915). Alleged error in admission of physician's report stating that child was addicted to heroin was harmless, in juvenile court proceeding, in view of other evidence sufficient to support finding of jurisdiction over child. *Id.*

7. Nature of proceedings

Juvenile court proceedings are civil, and petition need only contain brief statement of facts giving court jurisdiction. *In the matter of R. A. Nichols* (D.C. Mun. App. 1962, 179 A. 2d 915).

§ 11–914. Waiver of jurisdiction in case of felony—Transfer of case.

AMENDMENT

1962—Act Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(d), amended the section by striking the words "the judge" and inserting in lieu "a judge".

NOTES TO DECISIONS

Constitutionality 1
Full investigation 6
Waiver of jurisdiction 10

1. Constitutionality

Ordering juvenile to be held for trial under regular procedure in the District Court for the District of Columbia after juvenile court has conducted an inquiry does not offend the constitutional standard of fundamental fairness. *In the matter of M. A. Kent, Jr.* (D.C. Mun. App. 1962, 179 A. 2d 727).

6. Full investigation

Procedure followed by juvenile court in waiving jurisdiction over juvenile in connection with some 14 charges after investigation was not violative of statute concerning waiver of jurisdiction of a juvenile. *In the matter of M. A. Kent, Jr.* (D.C. Mun. App. 1962, 179 A. 2d 727).

10. Waiver of jurisdiction

Notwithstanding no petition had been filed and no summons had been issued under juvenile court procedure, juvenile court could waive jurisdiction after full investigation, and District Court acquired jurisdiction over offender. *United States* v. *J. L. Green* (1961, 200 F. Supp. 687).

Waiver certificate of juvenile court is presumed to be regular. *Id.*

§ 11–920. Appointment, qualifications, oath, and salary of judges

(a) The juvenile court of the District of Columbia shall consist of a chief judge and two associate judges learned in the law and appointed by the President, by and with the advice and consent of the Senate. Each judge appointed after the date of the enactment of this subsection shall serve for a term of ten years or until his successor is appointed and qualified.

(b) To be eligible for appointment as judge of the juvenile court a person must (1) have been a member of the bar of the District of Columbia for a period of five years preceding his appointment, (2) during a period of ten years immediately preceding his appointment, have been a resident of the District of Columbia or of the metropolitan area of the District for at least five years, of which not less than three years shall immediately precede his appointment, and (3) have a broad knowledge of social problems and procedures and an understanding of child psychology. For the purpose of this subsection the term "metropolitan area of the District" means Montgomery and Prince Georges Counties in Maryland and Arlington and Fairfax Counties and the cities of Alexandria and Falls Church in Virginia. Each judge shall, before entering upon the duties of his office, take the oath prescribed for judges of the courts of the United States.

(c) The chief judge shall be responsible for the administration of the court. During the temporary absence or disability of the chief judge, the associate judge of the juvenile court designated by the chief judge or acting chief judge of the United States District Court for the District of Columbia shall be responsible for the administration of the court. The salary of the chief judge shall be equal to the salary of the chief judge of the municipal court for the District of Columbia, and the salary of each associate judge shall be equal to the salary of an associate judge of the municipal court for the District of Columbia. (June 1, 1938, 52 Stat. 601, ch. 309, § 19; July 11, 1955, 69 Stat. 290, ch. 302, § 4; Mar. 9, 1962, 76 Stat. 21, Pub. L. 87–413, § 1; Aug. 24, 1962, 76 Stat. 398, Pub. L. 87–596 § 2(b).)

CHANGE OF NAME

Name of Municipal Court for the District of Columbia changed to "District of Columbia Court of General Sessions". See section 11–751a.

AMENDMENT

1962—Act Mar. 9, 1962, amended section generally. The membership of the court was increased to three

judges and the President was given authority to designate the chief judge. For comparison of section before this amendment see main volume of the Code.

Act Aug. 24, 1962, further amended the section by striking from subsection (a) as the same was amended by the Act of Mar. 9, 1962, the words "three judges" and inserting in lieu the words "a chief judge and two associate judges"; and by striking from subsection (c) the first sentence reading as follows: "The President shall designate one of the judges to be the chief judge of the juvenile court." See section 11–752.

REFERENCE TO JUVENILE COURT IN OTHER LAWS

Section 6, act Mar. 9, 1962, provided as follows: "Wherever in any laws of the United States reference is made to the judge of the juvenile court of the District of Columbia such reference shall be construed to mean any judge of such court."

PROVISIONS REGARDING INCUMBENT JUDGE ON MAR. 9, 1962

Section 2 of act Mar. 9, 1962, provided as follows: "The judge of the juvenile court of the District of Columbia who, on the date of the enactment of this Act [Mar. 9, 1962], is occupying the position of judge created by the Juvenile Court Act of the District of Columbia, approved June 1, 1938 (Sections 11–901 to 11–1942), shall continue in office and shall be deemed to be occupying one of the three positions of judge provided for by section 11–920, as amended by the first section of this Act [act Mar. 9, 1962], until the term for which he was appointed shall expire and his successor is duly appointed and qualified. Such judge shall be entitled to compensation in accordance with the provisions of section 11–920 as amended by the first section of this Act [act Mar. 9, 1962]."

Appointment or designation of judges or chief judges prior to Aug. 24, 1962, not affected by act Aug. 24, 1962.

Section 3 of act Aug. 24, 1962, provides as follows: "Nothing contained in any amendment made by this Act shall be construed as affecting any appointment or designation as a judge or chief judge of the municipal court for the District of Columbia, the municipal court of appeals for the District of Columbia, or the juvenile court of the District of Columbia made prior to the date of enactment of this Act."

§ 11–921. Filling vacancy in judgeship.

In cases of sickness, absence, disability, or death of any judge of the juvenile court, the chief justice or acting chief justice of the District Court of the United States for the District of Columbia shall designate one of the judges of the municipal court of said District to discharge the duties of said judge of the juvenile court until such disability be removed or vacancy filled. (June 1, 1938, 52 Stat. 601, ch. 309, § 20; Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(a).)

AMENDMENT

1962—Act Mar. 9, 1962, changed the words "death of the" to "death of any".

§ 11–922. Appointment of director of social work, supervisor of probation, probation officers and other employees.

AMENDMENT

1962—Act Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 4, amended the section by striking out the word "judge" and inserting in lieu thereof the word "count".

§ 11–923. Duties and powers of the director of social work.

Under the administrative direction of the chief judge, the director of social work shall have charge of all the social work of the court; and shall, in association with other social agencies of the District of Columbia, study sources and causes of delinquency and assist in developing and correlating community-wide plans for the prevention and treatment of delinquency. (June 1, 1938, 52 Stat. 602, ch. 309, § 22; Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(c).)

AMENDMENT

1962—Act Mar. 9, 1962, amended section by inserting "chief" before "judge".

§ 11–924. Duties and powers of the department of probation.

The supervisor of probation, under the direction of the director of social work, shall organize, direct, and develop the work of the probation department of the court.

The probation department of the court shall make such investigation as the court may direct, keep a written record of such investigations and submit the same to a judge or deal with them as he may direct. The probation department shall use all suitable methods to aid persons on probation and bring about improvement in their conduct and condition; keep informed concerning the conduct and condition of each person under its supervision and report thereon to the court as it may direct and such department shall keep full records of its work. The probation officers shall have such duties as may be assigned to them in the course of performing the functions of the probation department. Probation officers for the purpose of this chapter shall have the power of police officers. (June 1, 1938, 52 Stat. 602, ch. 309, § 23; Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(e).)

AMENDMENT

1962—Act Mar. 9, 1962, amended section by substituting "a judge" for "the judge" in the second sentence and by striking out in the third sentence "the judge as he may direct and keep full records of its work" and inserting in lieu thereof "the court as it may direct and such department shall keep full records of its work".

§ 11–925. Duties of the clerk.

The clerk shall give bond, with surety, and take the oath of office prescribed by law for clerks of District Courts of the United States. He shall have power to administer oaths and affirmations; shall keep accurate and complete accounts of money collected from persons under the supervision of the probation department, give receipts therefor, and make reports thereon as the chief judge may direct; and shall perform such duties and keep such records as may be prescribed by the chief judge of said court. (June 1, 1938, 52 Stat. 602, ch. 309, § 24; Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(c).)

AMENDMENT

1962—Act Mar. 9, 1962, inserted the word "chief" in front of the word "judge" in two places.

§ 11–927. Place of detention of child.

AMENDMENT

1962—Act Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(d), amended section by substituting the words "a judge" for the words "the judge".

§ 11–928. Court quarters.

Suitable quarters shall be provided by the commissioners for the District of Columbia, for the hearing of cases and for the use of the judges and the probation department and employees of the court. (June 1, 1938, 52 Stat. 603, ch. 309, § 27; Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(b).)

AMENDMENT

1962—Act Mar. 9, 1962, amended section by changing the word "judge" to "judges".

§ 11–929. Records—Inspection limited—Penalties.

* * * * *

(b) The records made by officers of the court pursuant to sections 11–908 and 11–924, referred to in this section as social records, shall be withheld from indiscriminate public inspection, except that such records or parts thereof shall be made available by rule of court or special order of court to such persons, governmental and private agencies, and institutions as have a legitimate interest in the protection, welfare, treatment, and rehabilitation of the child, and to any court before which any such child may appear. The court may also provide by rule or a judge may provide by special order that any such person or agency may make or receive copies of such records or parts thereof. No person, agency, or institution which has received records or information under this section may publish or use them for any purpose other than that for which they were received.

* * * * *

(Amended Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(f).)

AMENDMENT

1962—Act Mar. 9, 1962, amended subsection (b) by striking out "The judge may also provide, by rule or" and inserting in lieu thereof "The court may also provide by rule or a judge may provide by".

§ 11–937. Impaneling the jury.

AMENDMENT

1962—Act Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(d), amended section by striking out the words "the judge" and substituting the words "a judge" in lieu thereof.

§ 11–942. Continuance in office.

The officers holding office on June 1, 1938, shall continue in office until the terms for which they were appointed shall expire and until their successors are duly appointed and qualified. (June 1, 1938, 52 Stat. 605, ch. 309, § 42; Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 3(g).)

AMENDMENT

1962—Act Mar. 9, 1962, amended section by striking out "judge and other".

§ 11–942–1. Reports of the court to be made by chief judge to Attorney General and President of Board of Commissioners—Details of report—Public inspection.

The chief judge or the acting chief judge of the juvenile court shall submit to the Attorney General of the United States and to the President of the Board of Commissioners of the District of Columbia a detailed quarterly report of the work of the court, such report to be made within thirty days of the end of the quarter, and to include the number of juvenile and adult cases heard, the number of juvenile and adult cases calendared, the number of juvenile and adult complaints filed, the number of juvenile cases closed without court hearing, moneys collected for fines and support of legitimate and illegitimate family members, and such other information as may reflect the court's operation and volume of work. A copy of such report shall be kept in the office of the clerk of the court and be subject to public inspection during the regular hours that the court shall be open for business. (June 1, 1938, 52 Stat. 605, ch. 309, § 45, as added Mar. 9, 1962, 76 Stat. 22, Pub. L. 87–413, § 5.)

SUBCHAPTER II.—CHILDREN BORN OUT OF WEDLOCK

§ 11–953. Complaint.

NOTES TO DECISIONS

3. Examination under oath

Statute requiring complainant to be examined under oath by assistant corporation counsel to determine validity of accusation that defendant is father of illegitimate children was sufficiently complied with where assistant corporation counsel personally examined complainant, although exact details of interview were lacking because of lapse of six years between filing of informations and trial, and counsel administered oath at end of interview rather than beginning. *District of Columbia* v. *R. L. Dade* (D.C. Mun. App. 1961, 173 A. 2d 545).

§ 11–959. Support payments—Performance bond—Commitment—Probation.

NOTES TO DECISIONS

2.50. Jurisdiction

"Children," within statute providing that Domestic Relations Branch of Municipal Court shall have exclusive jurisdiction over actions to enforce support of minor children, includes illegitimate children and Domestic Relations Branch had jurisdiction of action to enforce order directing him to support minor children born out of wedlock, where natural father had acknowledged paternity. *C. Johnson* v. *E. Johnson et al.* (D.C. Mun. App. 1962, 183 A. 2d 916).

Chapter 14.—JURIES AND JURY COMMISSIONERS

§ 11–1420. Exemption from jury service—Government employees qualified—Salary not diminished.

NOTES TO DECISIONS

5. Impartiality of jurors

Court's action in excusing for cause on voir dire veniremen who answered affirmatively question whether they were opposed to capital punishment, was not error. *E. E. Turberville, B. T. Williams and J. H. Simpson* v. *United States* (1962, 303 F. 2d 411, 112 U.S. App. D.C. 400, cert. denied 82 S. Ct. 1596).

Chapter 15.—FEES AND COSTS

Sec.
11–1520a. Witness fees.

§ 11–1501. Compensation taxed as costs—Attorneys agreements with clients not prohibited.

NOTES TO DECISIONS

3. Jurisdiction

The bankruptcy court had exclusive jurisdiction to determine title to decedent's liquor store which administratrix had allowed bankrupt to control and operate, and such determination would not interfere with jurisdiction of probate court. *N. M. White, personally etc.* v. *M. F. Schwartz, Trustee etc.* (1962, 302 F. 2d 916, 112 U.S. App. D.C. 331).

§ 11–1507. Costs in clerk's office and register of wills payable immediately—Exception—United States and District of Columbia.

All costs and fees for services rendered by the clerk and the register of wills and chargeable to others than the United States or the District of Columbia shall be payable in advance and shall be collected by such rules and regulations, not incompatible with law, as may be prescribed by the court, but shall in no case be paid by the United States or by the District of Columbia. The District of Columbia shall not be required to pay fees to the clerk of the United States Court of Appeals for the District, or to the marshal of the District, and shall be entitled to the

services of said marshal in the service of all civil process.

Provided, That neither the United States nor the District of Columbia, nor any officer of either, acting in his official capacity, shall be required to give bond or enter into undertaking to perfect any appeal or to obtain any injunction or other writ, process, or order in or of any court in the District of Columbia for which a bond or undertaking was, on June 9, 1910, or may thereafter be required by law or rule of court. (Mar. 3, 1901, 31 Stat. 1219, ch. 854, § 177; June 30, 1902, 32 Stat. 527, ch. 1329; June 9, 1910, 36 Stat. 464, ch. 277; June 7, 1934, 48 Stat. 926, ch. 426; Oct. 4, 1961, 75 Stat. 769, Pub. L. 87–349, § 1.)

AMENDMENTS

1961—Act Oct. 4, 1961, amended the first sentence of the section by inserting "or the District of Columbia" after "than the United States" and by inserting "or by the District of Columbia" before the period.

1910—Act June 9, 1910, added the proviso.

1902—Act June 30, 1902, struck out the words "immediately after the services are performed" and inserted in lieu thereof the words "in advance."

CHANGE OF NAME

Act June 7, 1934, substituted "United States Court of Appeals for the District" for "court of appeals of the District."

CROSS REFERENCE

Liability for costs in suits against Board of Education, see § 31–101.

§ 11–1510. Repealed. Aug. 31, 1962, 76 Stat. 418, Pub. L. 87–621, § 2.

Section 11–1510, was based on section 1112, act Mar. 3, 1901, 31 Stat. 1365, ch. 854, as amended May 29, 1930, 46 Stat. 486, ch. 358.

Section 3 of act Aug. 31, 1962, makes the repeal of this section effective 90 days after Aug. 31, 1962. Section is now covered by section 1921 of title 28, U.S. Code.

§ 11–1519. Neither District of Columbia nor officer thereof required to pay costs.

Neither the District of Columbia nor any officer thereof acting therefor shall be required to pay court costs or fees in any court in and for the District of Columbia. (June 28, 1944, 58 Stat. 533, ch. 300, § 16; Oct. 4, 1961, 75 Stat. 769, Pub. L. 87–349, § 2.)

AMENDMENT

1961—Section 2 of act Oct. 4, 1961, amended the section by inserting "or fees" immediately following "court costs."

CODIFICATION

Section, prior to 1961 amendment, was from the District of Columbia Appropriation Act, 1945, act June 28, 1944. Similar provisions were contained in acts July 15, 1939, 53 Stat. 1009, ch. 281, § 1; June 12, 1940, 54 Stat. 307, ch. 333, § 1.

§ 11–1520. Repealed. Oct. 23, 1962, 76 Stat. 1172, Pub. L. 87–873, § 5(a).

The section of act Mar. 3, 1901, 31 Stat. 1367, ch. 854, § 1114, dealt with witness fees. See same subject matter in section 11–1520a.

§ 11–1520a. Witness fees.

(a) There shall be paid to witnesses in criminal cases in the District of Columbia Court of General Sessions, not exceeding seventy-five cents per diem for each day of attendance, to be allowed only in the discretion of the court.

(b) The fees and travel allowances to be paid any witness compelled by subpena to attend any branch of the District of Columbia Court of General Sessions other than the criminal branch shall be the same amount as paid a witness compelled to attend before the United States District Court for the District of Columbia. (July 1, 1902, 32 Stat. 561, ch. 1351; Oct 23, 1962, 76 Stat. 1172, Pub. L. 87–873, § 5(b), (c).)

CHANGE OF NAME

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions".

AMENDMENT

Section 5(b) of act Oct. 23, 1962, amended subsection (a) by striking the words "cases in the police court of the District of Columbia", and inserting the words "Criminal cases in the District of Columbia Court of General Sessions".

Section 5(c) of same act, enacted subsection (b).

EFFECTIVE DATE OF ACT OCT. 23, 1962.

See note to section 11–751a.

Chapter 16.—UNIFORM SUPPORT

§ 11–1603. Remedies additional to those now existing.

NOTES TO DECISIONS

1. Decree, does not bar action for support

Award for separate maintenance and support for minor children obtained under Reciprocal Enforcement of Support Act did not preclude later statutory action for maintenance and support. *A. E. Figliozzi* v. *J. Figliozzi* (D.C. Mun. App. 1961, 173 A. 2d 904).

§ 11–1615. Order of support—Bond—Contempt.

NOTES TO DECISIONS

1. Abuse of discretion

On record presented, order requiring father to make monthly payments for support of child who was living in Florida in custody of father's former wife was proper, and the amount within discretionary limits. *M. Brickey* v. *L. Weinstein* (D.C. Mun. App. 1961, 173 A. 2d 372.)

TITLE 12.—RIGHT TO REMEDY—CONDITIONS AFFECTING

Chapter 1.—ABATEMENT AND REVIVOR

§ 12-101. Actions survive in favor of or against representatives of deceased party—Limitation in tort actions.

NOTES TO DECISIONS

37.50 Incompetents

Statute of limitations does not begin to run against claim of committee for advances of sums to incompetent's estate for its benefit until committee enters final account with court, demands reimbursement for properly recorded advances, or dies with account open and unsettled. *Wm. H. Clarke, executor etc.* v. *V. K. Hickman, Jr., Committee etc.* (1962, 307 F. 2d 660, — U.S. App. D.C. —).

41. Libel

Right of action for libel does not survive death of alleged libelee. *M. L. Shearer, Admtx etc.* v. *Bakery and Confectionery Workers etc.* (1961, 294 F. 2d 235, 111 U.S. App. D.C. 39).

Chapter 2.—LIMITATION OF ACTIONS

§ 12-201. Periods—Recovery of real property—Executor's or administrator's bond—Instruments under seal—Simple contract—Property damage—Statutory penalty or forfeiture—Certain torts—Actions not specified—Persons under disabilities.

NOTES TO DECISIONS

48.50. Pension benefits

Three-year statute of limitations was not applicable to action by claimant for pension benefits from trust fund created by National Bituminous Coal Wage Agreement, but rather, the doctrine of laches was applicable. *A. Szuch* v. *John L. Lewis et al.* (1960, 193 F. Supp. 831).

56. Sealed instruments

Twelve-year limitation statute applying to action on contract under seal was applicable to suit brought by physician against medical service corporation for services rendered more than three years before suit was brought but less than twelve years, and not three-year limitation statute applicable to simple contracts, where contract, which was on printed form prepared by corporation, recited that parties affixed their seals thereto, and physician executed contract under seal, and corporation thereafter executed contract without impressing its corporate seal thereon. *R. J. McNulty, M.D.* v. *Medical Service of District of Columbia, Inc.* (D.C. Mun. App. 1962, 176 A. 2d 783).

58. Summary judgment

That creditor under an agreement for sale of goods on a 60-day credit basis demanded payment less than 60 days after some of the sales were made, though more than 60 days after others, did not establish that the meaning of the credit terms was a disputed question of fact precluding summary judgment. *Curtis Brothers, Inc.* v. *Thomasville Chair Co.* (1961, 289 F. 2d 461, 110 U.S. App. D.C. 84).

Where earliest sales were made on October 5, 1956, under an agreement providing for 60 days credit, no suit could have been brought before December 4, 1956 and suit brought December 2, 1959, was within the three-year statute of limitations. *Id.*

§ 12-208. Actions against District of Columbia for unliquidated damages—Notice within 6 months—Police report.

NOTES TO DECISIONS

10. Sufficiency of notice

Notice that pedestrian fell as result of defect in sidewalk in front of named premises was adequate though defect existed in gutter rather than sidewalk. *M. M. Dixon* v. *District of Columbia* (D.C. Mun. App. 1961, 168 A. 2d 905).

Chapter 4.—FRAUDULENT CONVEYANCES

§ 12-401. Intent to defraud creditors.

NOTES TO DECISIONS

2. Consideration

Where there was substantial evidence to support findings that note and deed of trust recorded on date prior to date when the United States filed notice of tax lien were without consideration and in fraud of creditors, such findings were not clearly erroneous and hence judgment based on such findings would be affirmed. *H. Milloff and S. Milloff* v. *United States and A. Goldkind* (1962, 306 F. 2d 783, — U.S. App. D.C. —).

TITLE 13.—PROCESS, PLEADINGS, AND PARTIES

Chapter 1.—PROCESS

§ 13–103. Service on foreign corporations.

NOTES TO DECISIONS

7. Doing business

Canadian aircraft manufacturer which had main plant and offices in Canada and maintained single employee in District of Columbia, who served as liaison man with United States Government and whose principal duties were to transmit information about government's requirements and to keep in contact with government agencies and who had no authority to accept orders from any source or execute contracts, was not "doing business in the district" and service of process upon such employee in action for injuries sustained in an airplane crash allegedly caused by negligence of manufacturer was properly quashed. *R. H. Traher et al.* v. *DeHavilland Aircraft of Canada Ltd.* (1961, 294 F. 2d 299, 111 U.S. App. D.C. 33).

14. Service upon officer

Since automobile importer, whose wholesale distributor had its principal place of business in District of Columbia, had a continuing contact with District, it was subject to service, in suit under Automobile Dealers Franchise Act, pursuant to District Code section providing for service on agent of foreign corporation or person conducting its business; and under that section, importer could be served by making service upon its distributor's president. *Fiat Motor Co., Inc.* v. *Alabama Imported Cars, Inc.* (1961, 292 F. 2d 745, 110 U.S. App. D.C. 252).

§ 13–108. Publication as to nonresident, those absent for six months, unknown heirs or devisees, for divorce or proceeding in rem—Actual service beyond District.

NOTES TO DECISIONS

5. Alimony

Use of service by publication or service outside of District of Columbia was authorized where divorced husband resided in Ohio, and wife, who sought support for herself and minor child, also sought to subject former marital home in District to support payments awarded and to have determined her property right in the home and to obtain injunction against the sale. *S. S. Wagner* v. *C. A. Wagner* (1961, 293 F. 2d 533, 110 U.S. App. D.C. 345).

Substituted service upon husband, who was residing in Ohio, of complaint wherein wife sought determination of property rights of husband's real estate in District of Columbia was sufficient to give court in District of Columbia power to enforce her rights without attachment of the property at time of filing suit. *Id.*

§ 13–111. Publication of notice—Affidavit showing copy mailed—Guardian ad litem.

NOTES TO DECISIONS

1 Diligent effort

Dismissal of wife's divorce action based on desertion on ground that wife had not offered satisfactory proof of mailing of publication to last known residence of husband was improper where address to which publication had been sent was, to wife's knowledge, last place at which husband had lived and efforts to locate husband were persistent and diligent. *C. S. McIntyre* v. *J. D. McIntyre* (D.C. Mun. App. 1961, 176 A. 2d 238).

Even if wife did not succeed in accurately establishing husband's most recent place of residence, evidence established that she had diligently tried to ascertain it before bringing action for absolute divorce on ground of desertion. *Id.*

Chapter 2.—PLEADINGS

§ 13–208. Joinder of counts.

NOTES TO DECISIONS

.50. Alternative theories

Remarks by plaintiff's counsel during opening statements were too ambiguous to show abandonment by plaintiff of pleaded alternative theories for setting aside of trust created by plaintiff's wife nine months before her death, and therefore trial court erred in limiting its consideration to single theory. *M. Edelman, etc.* v. *National Bank of Washington et al.* (1961, 297 F. 2d 188, 111 U.S. App. D.C. 346).

Chapter 4.—PARTIES

§ 13–401. One action and judgment against all or any defendants jointly or severally or jointly and severally obligated—Unnecessary separate actions—Motion to consolidate.

NOTES TO DECISIONS

2.50. Joint liability

Under contract which called for members of creditor's committee of insolvent corporation to assume responsibility for payment of attorney's fee and under which members of committee were identified as promisors, each member was not bound by a separate promise to pay pro rata share but members were jointly liable for entire fee. *V. B. Welch* v. *R. W. Sherwin et al.* (1962, 300 F. 2d 716, 112 U.S. App. D.C. 124).

TITLE 14.—PROOF

Chapter 1.—EVIDENCE IN GENERAL

§ 14–104. Impeachment of own witness—Surprise.

NOTES TO DECISIONS

11. Surprise

Permitting prosecution to claim surprise during examination of government witness, who first testified that he could not tell whether person who emerged from alley in which victim had been shot was male or female, and to allow prosecution to exhibit to witness his prior written statement, whereupon witness testified that he had seen tall colored man emerge from alley, was not reversible error. *F. Robinson* v. *United States* (1962, 308 F. 2d 327, — U.S. App. D.C. —).

Chapter 2.—DEPOSITIONS

§ 14–201. Depositions de bene esse—Taking—Conditions—Procedure—Resident and nonresident witnesses.

NOTES TO DECISIONS

2. Depositions

Tax Court did not have authority to require taking of deposition of director of corporate taxpayer to perpetuate testimony, where taxpayer had not filed a petition for redetermination with Tax Court. *Louisville Builders Supply Co.* v. *Commissioner of Internal Revenue* (1961, 294 F. 2d 333, U.S. App. 6th Cir.).

Chapter 3.—COMPETENCY OF WITNESSES

Sec.

§ 14–302. Testimony with respect to transactions, declarations or admissions of deceased or incapable persons.

NOTES TO DECISIONS

5. Corporate transactions

Evidence by automobile buyer regarding cash payment made to deceased taxpayer was admissible in action respecting redetermination of income tax liability of deceased. *Logan Square Auto Mart. Inc., et al.* v. *Commissioner of Internal Revenue* (1961, 291 F. 2d 136, U.S. App. 7th Ct.).

7. Corroborations

Evidence, adduced by former employee of decedent, suing administratrix for back salary due, including canceled checks, payroll records, and tax returns, sufficiently corroborated plaintiff's testimony to avoid prohibition of statute precluding judgment against decedent's representative on uncorroborated testimony of adversary. *A. P. Pekofsky, Admt'x etc.* v. *O. Blalock* (D.C. Mun. App. 1961, 175 A. 2d 604).

Under statute prohibiting judgment against representative of decedent on unsupported testimony of adversary, each case depends upon its own facts, but test is whether evidence, taken as whole, tends to make story substantially more credible. *Id.*

§ 14–305. Conviction of crime not to disqualify witness—Conviction may be shown—How proved.

NOTES TO DECISIONS

3. Conviction

Evidence that attorney was brother of accused and had been convicted and disbarred for crime although he had been pardoned and reinstated, was admissible to disprove alleged good faith reliance on legal advice, introduced to negate specific intent of accused to violate statute, where pardon was of kind commonly given to first offenders who have given promise of reform. *A. J. Wacksman* v. *United States* (D.C. Mun. App. 1961, 175 A. 2d 789).

It was improper, in impeaching witness, to admit indictment as to two counts resulting in conviction and to put before jury the other counts of which witness was acquitted; however, reversal was not required where inadmissible material could have had no substantial effect on jury, in view of the other evidence available. *Id.*

§ 14–308. Testimony of physicians—Privilege—Exceptions.

NOTES TO DECISIONS

19. Waiver

Any physician-patient privilege which existed between defendant and psychiatrist was waived by psychiatrist's testimony relating to defendant's mental faculty to formulate and harbor larcenous intent, and government had thereupon right to cross-examine psychiatrist to explore underlying basis for his opinion, and, in so doing, could properly ask whether defendant had informed psychiatrist defendant was under arrest on charge of falsifying statements. *A. A. Dani* v. *United States* (D.C. Mun. App. 1961, 173 A. 2d 736).

§ 14–310. Clergy—Examination of, as to confidential communications, not permitted—Exception.

No priest, clergyman, rabbi, or other duly licensed, ordained, or consecrated minister of any religion authorized to perform a marriage ceremony in the District of Columbia or duly accredited practitioner of Christian Science shall be examined in any civil or criminal proceedings in the courts of the District of Columbia—

(1) with respect to any confession, or communication, made to him, in his professional capacity in the course of discipline enjoined by the church or other religious body to which he belongs, without the consent of the person making such confession or communication, or

(2) with respect to any communication made to him, in his professional capacity in the course of giving religious or spiritual advice, without the consent of the person seeking such advice, or

(3) with respect to any communication made to him, in his professional capacity, by either spouse, in connection with any effort to reconcile estranged spouses, without the consent of the spouse making the communication.

(Sept. 26, 1961, 75 Stat. 681, Pub. L. 87–318, § 1.)

TITLE 15.—JUDGMENTS AND EXECUTION OF JUDICIAL POWERS

Chapter 1.—JUDGMENTS AND DECREES

§ 15–101. Limitations.

NOTES TO DECISIONS

8. Revival

Judgments not satisfied, and not revived within 12-year period of limitations, were extinct, and no longer subsisted, for purposes of execution thereon. *G. A. Lee* v. *G. A. England et al.* (1962, 206 F. Supp. 957).

Chapter 3.—PROCEEDINGS IN AID OF EXECUTION

§ 15–309. Traversing garnishee's answers—Costs and counsel fee.

NOTES TO DECISIONS

2. Counsel fees

Evidence supported finding that garnishee in whose favor judgment had been entered after trial on traverse to his answer had incurred obligation to pay for legal services furnished. *A. A. Peikin* v. *C. Williams* (D.C. Mun. App. 1961, 167 A. 2d 355).

Good faith in issuance of garnishment and traversing of garnishee's answer could be taken into consideration in fixing reasonable counsel fee recoverable by successful garnishee but was not absolute bar to grant of counsel fee. *Id.*

Award to garnishee, in whose favor judgment had been entered after trial on traverse to his answer, of attorney's fee in amount of $300 was not unreasonable although the attachment was for only $600. *Id.*

Chapter 3.—ATTACHMENT AND GARNISHMENT

§ 16-301. Attachment before judgment—Bond and affidavit—Causes.

NOTES TO DECISIONS

19. Quashing writ of attachment

Court did not abuse its discretion in denying motion to quash order of condemnation of funds attached and to set aside default judgment, where defendant had filed no responsive pleadings after its motions to strike complaint and to quash attachment were denied and after unsuccessful negotiations to reach a settlement. *Union Storage Company, Inc.* v. *Maury Young et al.* (D.C. Mun. App. 1962, 183 A. 2d 760).

Chapter 4.—DIVORCE AND SEPARATION

§ 16-403. Causes for divorce a vinculo and for divorce a mensa et thoro and for annulling marriages.

NOTES TO DECISIONS

8. Common-law marriage

Evidence that the parties never expressly agreed to be husband and wife, and that the defendant made a promise to marry the plaintiff which he never kept, was insufficient to establish a common-law marriage. *M. M. Toye* v. *Leo A. Toye* (D.C. Mun. App. 1961, 170 A. 2d 778).

16. Desertion

Evidence justified denial of divorce to the wife on the ground of desertion. *G. R. Bowles* v. *C. H. Bowles* (D.C. Mun. App. 1962, 178 A. 2d 434).

Wife was entitled to divorce on ground of desertion where husband had left, more than two years before initiation of action, for no good or stated reason and without wife's consent. *V. Gaskins* v. *F. L. Gaskins* (D.C. Mun. App. 1961, 175 A. 2d 783).

Right of wife to divorce on ground of desertion was not lost; although, more than four years after husband left, she did not offer to mend situation by taking him back. *Id.*

Testimony of wife, corroborated in part, that husband left, taking most of his belongings, and did not say where he was going, that she could not locate him, and that about two months later he came to get rest of belongings and told her she could get divorce but did not say where he was going, was not inherently incredible. *Id.*

17. Drunkenness

Cruelty resulting from excessive drinking, which will justify a spouse in leaving the other and thereby make the other guilty of constructive desertion, will justify a limited divorce. *R. W. Potts* v. *J. H. Potts* (D.C. Mun. App. 1961, 171 A. 2d 263).

25. Laches and estoppel

Wife's delay of 21 years after separation before her first demand for support did not constitute laches barring her from permanent alimony in husband's divorce action on ground of five years' voluntary separation, in absence of showing of prejudice to husband, where wife had wished to be independent but her health deteriorated, and particularly where, during 12 of those years, she was mentally incompetent. *J. N. Samuels, Jr.* v. *D. C. Samuels* (D.C. Mun. App. 1961, 173 A. 2d 214).

43. Separation agreement

Evidence supported finding that wife had acted voluntarily in entering into separation agreement with husband, who was suing for divorce on ground of 5-year voluntary separation and who had made lengthy negotiations with wife's lawyer who had thereafter prepared the agreement. *R. C. Clement* v. *H. G. Clement* (D.C. Mun. App. 1962, 179 A. 2d 433).

The validity of separation agreement depended on whether it was fairly and voluntarily made, if intended as complete and final settlement, and if so made, it was binding and barred further claims by wife. *B. LeBert-Francis* v. *M. P. LeBert-Francis* (D.C. Mun. App. 1961, 175 A. 2d 602).

Evidence sustained finding that husband had, by his acts as well as by execution of separation agreement with his wife, confirmed and consented to separation already existing between parties, and did not carry his burden, showing desertion. *G. N. Keller* v. *D. W. Keller* (D.C. Mun. App. 1961, 171 A. 2d 511).

51. Waiver

Separation agreement which required parties, in event of decree of divorce or of separation, to request no sum for maintenance, alimony, property settlement, costs or attorney fees except as provided therein, did not constitute waiver of attorney's fees to wife's counsel in husband's unsuccessful divorce action. *G. N. Keller* v. *D. W. Keller* (D.C. Mun. App. 1961, 171 A. 2d 511).

§ 16-409. Decree of annulment or divorce a vinculo dissolves property rights—Jurisdiction of court to determine property rights.

NOTES TO DECISIONS

8. Property rights

Ordinarily, decree forfeiting wife's interest in entireties property because of adultery is effective as of date of its entry, unless it expressly provides earlier date. *M. Schultze* v. *G. H. Schultze* (1962, 300 F. 2d 917, — U.S. App. D.C. —).

Decree forfeiting wife's interest in entireties property because of adultery was effective as of date of Maryland divorce judgment, which found adultery and on basis of which forfeiture was directed, although forfeiture decree did not fix date of effect. *Id.*

Wife whose interest in entireties property was declared forfeited because of adultery was not entitled to share in rents accruing after effective date of forfeiture, nor to conveyance of one-half of property. *Id.*

§ 16-410. Alimony pendente lite—Suit money—Counsel fees—Enforcement—Enjoining disposition and sequestration of property—Custody of children.

NOTES TO DECISIONS

1.50. Abatement

Divorce action abated upon wife's death, and, therefore, court lacked power to compel surviving husband to pay wife's counsel fees for services prior to wife's death. *B. F. Fitzgerald, Jr., et ano.* v. *M. Williams* (D.C. Mun. App. 1961, 170 A. 2d 777).

12. Imprisonment

Inasmuch as acknowledged father of illegitimate children did not have status of husband, his disobedience of order directing him to support children, though contemptuous, could not be punished by imprisonment. *C. Johnson* v. *E. Johnson et al.* (D.C. Mun. App. 1962, 183 A. 2d 916).

§ 16–415. Maintenance of wife and minor children—Enforcement.

NOTES TO DECISIONS

5.50. Basis for award

Under statute to effect that court may award maintenance to wife if husband fails or refuses to maintain her, wife makes out prima facie case by proving husband failed to maintain her and was able to do so, but husband may offer evidence that wife left him without just cause or that separation was brought about largely or in part by wife's cruelty or act of unkindness or indignity and such proof may justify denial or abatement of maintenance. *F. L. Miller* v. *B. Miller* (D.C. Mun. App. 1962, 180 A. 2d 888).

Wife's misconduct may bar her claim from maintenance or, despite misconduct, she may be entitled to award but in lesser amount than would otherwise be awarded. *Id.*

Finding that wife, who has left husband, was justified in living separate and apart from husband should be prerequisite to award of maintenance to wife. *Id.*

7.50. Custody of children

In action by wife for maintenance and support, exclusive custody of minor children of the parties should not have been awarded to wife where husband and wife and the children remained living together in the same household. *R. L. Clements* v. *R. Clements* (D.C. Mun. App. 1962, 184 A. 2d 195).

10.50. Effect of decree under reciprocal laws

Award for separate maintenance and support for minor children obtained under reciprocal enforcement of Support Act did not preclude later statutory action for maintenance and support. *A. E. Figliozzi* v. *J. Figliozzi* (D.C. Mun. App. 1961, 173 A. 2d 904).

14. Evidence

Evidence in separate maintenance action supported finding that husband's misconduct had justified wife in leaving him. *G. M. Johnson* v. *C. D. Johnson* (D.C. Mun. App. 1962, 179 A. 2d 720).

16. Imprisonment

Inasmuch as acknowledged father of illegitimate children did not have status of husband, his disobedience of order directing him to support children, though contemptuous, could not be punished by imprisonment. *C. Johnson* v. *E. Johnson et al.* (D.C. Mun. App. 1962, 183 A. 2d 916).

25. Separate maintenance

Wife who was living under the same roof with her husband although refusing to share his bed was not entitled to an award of separate maintenance merely because she contributed to living expenses by purchasing groceries with money she earned, where such arrangement was voluntary, and husband paid rent, telephone, electricity, and contributed to the cost of groceries and clothing of minor children of the parties. *R. L. Clements* v. *R. Clements* (D.C. Mun. App. 1962, 184 A. 2d 195).

Although an award of separate maintenance may be made to a wife in fact living a separate life, although under the same roof with her husband, such situation should be given careful scrutiny to discourage litigation between husbands and wives who are actually living together. *Id.*

Wife makes out case for separate maintenance by establishing that husband failed or refused to support her, although able to do so; no allegation of cruelty is necessary. *G. M. Johnson* v. *C. D. Johnson* (D.C. Mun. App. 1962, 179 A. 2d 720).

§ 16–418. Court to assign attorney in uncontested cases—Compensation.

NOTES TO DECISIONS

1. Contempt

Municipal court had summary jurisdiction over attorneys who had represented plaintiff in unsuccessful divorce action in which court ordered payment of attorney fees to counsel appointed for defendant, and such summary power could be invoked to punish such attorneys for contempt when they failed to pay over to defendant's counsel a sum which the court had found had been entrusted to them for payment of such fees. *In re E. L. Ferrell and N. A. Perry* (D.C. Mun. App. 1961, 172 A. 2d 555).

Failure of attorneys to comply with order requiring them to pay over funds found to have been entrusted to them by their client for payment of attorney fees awarded opponent constituted "contempt of court". *Id.*

Trial court had authority to award counsel fees for attorney appointed by court to represent husband in wife's uncontested divorce action dismissed for lack of jurisdiction and lack of proof. *Id.*

§ 16–422. Suit to determine validity of marriage.

NOTES TO DECISIONS

4. Validity of foreign divorce

Alabama divorce decree was subject to challenge in the District of Columbia for lack of jurisdiction over the res, or over either of the parties, where husband merely flew into Alabama, signed a complaint and affidavit, and 4 or 5 hours later flew back to his home and business in Washington, D.C., even though wife signed an acceptance of service of process and answer and waiver. *E. G. DeParata* v. *B. G. DeParata* (D.C. Mun. App. 1962, 179 A. 2d 723).

Chapter 6.—EMINENT DOMAIN

ACQUISITION OF LAND IN THE DISTRICT OF COLUMBIA FOR USE OF THE UNITED STATES

§ 16–619. Condemnation of land for United States—Proceeding by Attorney General in United States District Court for the District of Columbia.

NOTES TO DECISIONS

2.50. Discretionary authority

Statute authorizing District of Columbia Redevelopment Land Agency to acquire property in the name of the United States by condemnation under judicial process whenever in the opinion of the Authority it was necessary or advantageous to do so, was a grant of discretionary authority as to time of taking. *C. R. Goddard* v. *District of Columbia Redevelopment Land Agency etc.* (1961, 287 F. 2d 343, 109 U.S. App. D.C. 304).

7. Tort actions

The District of Columbia Redevelopment Land Agency is a Federal agency within the meaning of the Federal Tort Claims Act, and suits based on torts allegedly committed by the Agency or its employees acting in an official capacity are maintainable, if at all, under the Tort Claims Act, and must name the United States as defendant. *C. R. Godard* v. *District of Columbia Redevelopment Land Agency etc.* (1961, 287 F. 2d 343, 109 U.S. App. D.C. 304).

§ 16–639. Payment of compensation into court—Vesting of title.

NOTES TO DECISIONS

1. Interest

Where judgment was entered June 30 ratifying condemnation award returned by jury on June 28 but full amount of award was not deposited in registry of court until October 20 and owners continued to hold title as well as possession of property and receive income from it until that time, and proceedings were taken under statute which did not vest title in government until payment of award was made into registry of court, owners were not entitled to have interest added as part of just compensation to amount awarded by jury. *K. Gould et al.* v. *United States* (1962, 301 F. 2d 557, 112 U.S. App. D.C. 233).

§ 16–644. Proceedings on behalf of the District of Columbia, not affected by sections 16–619 to 16–644.

NOTES TO DECISIONS

1. Tort actions

The District of Columbia Redevelopment Land Agency is a Federal agency within meaning of the Federal Tort Claims Act, and suits based on torts allegedly committed by the Agency or its employees acting in an official capacity are maintainable, if at all, under the Tort Claims Act, and must name the United States as defendant. *C. R. Goddard* v. *District of Columbia Redevelopment Land Agency etc.* (1961, 287 F. 2d 343, 109 U.S. App. D.C. 304).

Chapter 9. JOINT CONTRACTS

§ 16–901. Joint and several—Contracts—Definition.

NOTES TO DECISIONS

2.50. Joint liability

Under contract which called for members of creditor's committee of insolvent corporation to assume responsibility for payment of attorney's fee and under which members of committee were identified as promisors, each member was not bound by a separate promise to pay pro rata share but members were jointly liable for entire fee. *V. B. Welch* v. *R. W. Sherwin et al.* (1962, 300 F. 2d 716, 112 U.S. App. D.C. 124).

Chapter 12.—NEGLIGENCE CAUSING DEATH

§ 16–1201. Liability.

NOTES TO DECISIONS

9. Construction with other laws

Plaintiff, who recovered against one joint tort-feasor under the Virginia Wrongful Death Act, and in a separate action against another tort-feasor under the District of Columbia Wrongful Death Act, was not entitled to recover against the joint tort-feasors collectively an amount greater than the amount of the larger judgment, the judgment against party responsible under the District of Columbia Act, since loss of consortium and solatium, recovery for which was allowable only under the Virginia Act, was not considered in computing damages so that judgments against both tort-feasors were for the same damages. *J. A. St. Clair, as executrix etc.* v. *Eastern Airlines Inc., and United States* (1962, 302 F. 2d 477, U.S. App. 2d Ct.).

New York law applied in determining right of plaintiff to interest on judgment for wrongful death of her decedent, where jurisdiction of suit, which was brought in the Southern District of New York was based on diversity of citizenship. *Id.*

Under New York law, plaintiff, who sued for wrongful death of her decedent who was killed in an accident in the District of Columbia, was entitled only to interest from date of judgment, and was not entitled to interest on the judgment from date of decedent's death. *Id.*

Federal court, for New York District, whose jurisdiction rested upon diversity of citizenship, would apply New York conflict of laws rules to death action arising out of airplane crash occurring over District of Columbia; and, accordingly, plaintiff's right to recover damages was governed by Wrongful Death Act of District of Columbia. *J. A. St. Clair as Executrix etc.* v. *Eastern Airlines, Inc.* (1961, 194 F. Supp. 623).

New York statute requiring that judgment include interest from date of decedent's death was inapplicable to wrongful death action in which substantive right of recovery was based upon laws of District of Columbia. *Id.*

§ 16–1202. Party plaintiff—Statute of limitations.

NOTES TO DECISIONS

6. Construction with other laws

Federal court, for New York District, whose jurisdiction rested upon diversity of citizenship, would apply New York conflict of laws rules to death action arising out of airplane crash occurring over District of Columbia; and, accordingly, plaintiff's right to recover damages was governed by Wrongful Death Act of District of Columbia. *J. A. St. Clair as Executrix etc.* v. *Eastern Airlines, Inc.* (1961, 194 F. Supp. 623).

New York statute requiring that judgment include interest from date of decedent's death was inapplicable to wrongful death action in which substantive right of recovery was based upon laws of District of Columbia. *Id.*

PART III

PROBATE LAW AND PROCEDURE

TITLE 18.—DECEDENTS' ESTATES AND THEIR DISTRIBUTION

Chapter 1.—LAW OF DESCENTS

§ 18–101. Course of descents generally.

On the death of any person seized of or entitled to an interest in an estate in lands, tenements, or hereditaments in the District of Columbia, and intestate thereof, the same shall descend in fee simple to such person's surviving spouse, if any, and kindred, who according to the laws of the District of Columbia now or hereafter in force relating to the distribution of the personal property of intestates, would be entitled to the surplus personal property of such intestate, if he or she had died a resident of the District of Columbia and possessed of such surplus personalty; and such surviving spouse and kindred shall take as tenants in common in the same proportions as are or shall be fixed by such laws relating to personal property. Subject to the right of dower, such real property shall be liable, in the event of insufficiency of the personal property, for the payment of the intestate's funeral expenses, debts, costs of administration, and estate, inheritance, and succession taxes in the same manner and to the same extent as the personal property of such intestate. Should said lands, tenements, or hereditaments be sold under a decree of a court having jurisdiction over the same, then it shall be unnecessary to secure the consent of said widow or surviving husband to said sale, unless the widow elects to take her dower, if any, in all real estate whereof the husband, prior to November 29, 1957, was seized at any time during the marriage or the surviving spouse elects to take the right of dower provided by section 18–201a as amended. (Aug. 31, 1957, 71 Stat. 560, Pub. L. 85–244, § 1; Sept. 14, 1961, 75 Stat. 515, Pub. L. 87–246, § 2).

AMENDMENT

1961—Act Sept. 14, 1961, amended section generally. For provisions of section prior to this amendment, see section as set out in main volume of the Code.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 8 of act Sept. 14, 1961, provided that: "The foregoing provisions of this Act [amending sections 18–101, 18–201a, 18–204, 18–211 and 30–201] shall become effective six months after the date of enactment of this Act."

POPULAR NAME

Section 1 of act Sept. 14, 1961, provided: "That this Act (amending sections 18–101, 18–201a, 18–211, 18–204 and 30–201) may be cited as the "Marital Property Rights Amendments of 1961."

REPEAL OF INCONSISTENT PROVISIONS

Section 7 of act Sept. 14, 1961, provided that: "Any provision of law inconsistent with the provisions and amendments of this Act [amending sections 18–101, 18–201a, 18–204, 18–211, and 30–201] is hereby repealed."

CROSS REFERENCES

Dower rights of husband and wife, see § 18–201a.

Distribution of death benefits of fraternal benefit association, see § 35–901.

Distribution of personal property, see §§ 18–701 to 18–723.

Distribution of proceeds of action for wrongful death, see § 16–1203.

Inheritance by adopted children, see § 16–222.

Renunciations, see § 18–211.

Chapter 2.—DOWER RIGHTS

Sec.

§ 18–201a. Dower rights of husband and wife—Joint tenancies—All laws relating to the right of dower to be construed as applicable to both husband and wife.

Every husband and wife shall acquire by virtue of the marriage a right of dower which shall be an inchoate estate for life in one-third of the real property owned by the other spouse at any time during the marriage, whether by legal or equitable title, and whether held by either spouse at the time of his or her death or not, and such estate, which shall have the same incidents as the common law estate of dower in force and effect in the District of Columbia immediately prior to November 29, 1957, shall be in lieu of any inchoate rights acquired by or which may have attached to the real estate of any husband or wife by virtue of the provisions of subsection (b) of this section, as such subsection was in effect immediately prior to the effective date of this amendment, and shall not operate to the prejudice of any claim for the purchase money of such lands. No such right of dower shall attach to any lands held by any two or more persons as joint tenants while such tenancy exists; and all provisions of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, as amended, and all other laws in force in

the District of Columbia relating to the right of dower and its incidents shall, on and after the effective date of this amendment, be construed to be applicable to both husband and wife. (Aug. 31, 1957, 71 Stat. 560, Pub. L. 85–244, § 3; Sept. 14, 1961, 75 Stat. 515, Pub. L. 87–246, § 3.)

REFERENCES IN TEXT

Subsection (b) referred to in text will be found in section 18–201a of the main volume.

Act of Mar. 3, 1901, referred to in text, relating to dower rights will be found generally set out in this title. For other provisions set out in different parts of the Code see distribution tables relating to act of Mar. 3, 1901, 31 Stat. 1189, in the main volume.

AMENDMENT

1961—Act Sept. 14, 1961, amended the section to read as above set out. The amendment restores the inchoate right of dower and makes the same applicable to both husband and wife. For provisions of section prior to this amendment see section as set out in main volume of Code.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 8 of act Sept. 14, 1961, provided that: "The foregoing provisions of this Act [amending sections 18–101, 18–201a, 18–204, 18–211 and 30–201] shall become effective six months after the date of enactment of this Act."

POPULAR NAME

Section 1 of act Sept. 14, 1961, provided: "That this Act (amending sections 18–101, 18–201a, 18–204, 18–211 and 30–201) may be cited as the 'Marital Property Rights Amendments of 1961.' "

CROSS REFERENCE

Renunciations, see § 18–211.

§ 18–204. Absent or incompetent spouse.

Where any married person is a lunatic or insane, and has been so adjudicated by a court of competent jurisdiction and such adjudication remains in force, or where any married person has been absent or unheard of for seven years, the husband or wife, as the case may be, of such lunatic or insane or absent person may grant and convey by his or her separate deed, whether the same be absolute or by way of lease or mortgage, as fully as if he or she were unmarried, any real estate which he or she may have acquired since such adjudication or since the beginning of such absence. (Sept. 14, 1961, 75 Stat. 517, Pub. L. 87–246, § 5.)

AMENDMENT

1961—Act Sept. 14, 1961, amended section to read as above set out. The amendment makes the section applicable to both husband and wife.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 8 of act Sept. 14, 1961, provided that: "The foregoing provisions of this Act [amending sections 18–101, 18–201a, 18–204, 18–211 and 30–201] shall become effective six months after the date of enactment of this Act."

POPULAR NAME

Section 1 of act Sept. 14, 1961, provided: "That this Act (amending sections 18–101, 18–201a, 18–211, 18–204 and 30–201) may be cited as the "Marital Property Rights Amendments of 1961."

CROSS REFERENCES

Right of dower of husband and wife, see § 18–201a.
Renunciations, see § 18–211.
Renunciation of dower rights, see § 30–216.
Release of dower generally, see § 30–216.
Release of dower of insane person, see § 21–301.

§ 18–211. Renunciation of devises and bequests to spouse—Election of dower—Time limitations—Renunciations or elections by guardians or fiduciaries—Renunciations deemed to have been made when nothing passes under bequest or device—Maximum rights upon renunciation—Antenuptial or postnuptial agreements.

(a) Subject to the provisions of section 18–212 a widow or surviving husband shall by such devise or bequest be barred of any statutory rights or interest she or he may have in the real and personal estate of the deceased spouse or the dower rights provided by section 18–201a, as the case may be, unless within six months after the will of the deceased spouse is admitted to probate, she or he shall file in the probate court a written renunciation to the following effect:

"I, A B, widow (or surviving husband of late of , deceased, do hereby renounce and quit all claim to any devise or bequest made to me by the last will of my husband (or wife) exhibited and proved according to law; and I elect to take in lieu thereof my legal share of the real and personal property of my said spouse (except that in lieu of my legal share of the real property, I elect to take dower in all the real property of my deceased spouse to which such right is applicable).

(b) In similar manner, where the deceased spouse has died intestate of any real estate and letters of administration have been issued with respect to the estate of such deceased spouse, the surviving spouse shall be barred of the dower rights provided by section 18–201a, unless within six months after such letters of administration have been issued with respect to the estate of the deceased spouse, she or he shall file in the probate court a written renunciation of her or his legal share of such intestate real estate to the following effect:

I, A B, widow (or surviving husband) of deceased, in lieu of my legal share of the real property of which my deceased spouse died intestate, do hereby elect to take dower in all the real property of my deceased spouse to which such right is applicable.

(c) If, during said period of six months, a suit should be instituted to construe the will of the deceased spouse, the period of six months for the filing of such renunciation or election shall commence to run from the date when such suit shall be finally determined, by appeal or otherwise. A renunciation or election may be made in behalf of any spouse unable to act for himself or herself by reason of infancy, incompetency, or inability to manage his or her property, by the guardian or other fiduciary acting for such spouse when authorized so to do by the court having jurisdiction of the person of such spouse. The time for renunciation by any spouse may be extended before its expiration by an order of the probate court for successive periods of not exceeding six months each upon petition showing reasonable cause and on notice given to the personal representative and to such other persons in such manner as the probate court may direct.

(d) In any case where the wife or husband has made no devise or bequest to the spouse, and in any

case where nothing passes by any purported devise or bequest, the surviving spouse shall be deemed to have filed a written renunciation as provided in subsection (a) of this section (subject to his or her right to elect dower in lieu of the legal share of real estate within six months from probate of the will provided in subsection (b) of this section).

(e) By renouncing all claim to any and all devises and bequests made to her or him by the will of her husband or his wife pursuant to the provisions of subsection (a) of this section, or in the event that a renunciation shall be deemed to be effected pursuant to the provisions of subsection (d) of this section, the surviving spouse shall be entitled to such share or interest in the real and personal estate of the deceased spouse (including dower if elected in lieu of the legal share in the real estate) which she or he would have taken had the deceased spouse died intestate, except that in neither event shall the surviving spouse be entitled to more than one-half of the net estate bequeathed and devised by said will, or, if dower be elected, one-half of the net personal estate bequeathed and dower in the real estate devised.

(f) Notwithstanding any other provision of law now or heretofore in effect in the District of Columbia, any valid antenuptial or postnuptial agreement which shall have been entered into by the spouses shall govern and the provisions thereof shall determine the rights of the surviving spouse in the real and personal property of the deceased spouse, and the administration thereof, but nothing contained in this subsection shall prohibit any spouse from accepting the benefits of any devise or bequest made to him or her by the deceased spouse. (Aug. 31, 1957, 71 Stat. 561, Pub. L. 85–244, § 6; Sept. 14, 1961, 75 Stat. 516, Pub. L. 87–246, § 4.)

AMENDMENT

1961—Act Sept. 14, 1961, amended the section generally. For comparison with prior provisions of this section see section in main volume of the Code.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 8 of act Sept. 14, 1961, provided that: "The foregoing provisions of this Act [amending sections 18–101, 18–201a, 18–204, 18–211 and 30–201] shall become effective six months after the date of enactment of this Act."

POPULAR NAME

Section 1 of act Sept. 14, 1961, provided: "That this Act (amending sections 18–101, 18–201a, 18–204, 18–211, and 30–201) may be cited as the 'Marital Property Rights Amendment of 1961'."

CROSS REFERENCE

Right of dower of husband and wife, see § 18–201a.

Chapter 7.—DISTRIBUTION OF SURPLUS—BENEFICIARIES

§ 18–717. Escheatment.

NOTES TO DECISIONS

5.50. Soldiers' Home inmates

Inmate of United States Soldiers' Home in District of Columbia, retired from regular army, and a resident of District of Columbia, who died without legal heirs or next of kin, was a "soldier" within statute providing for funds for support of the Soldiers' Home, and United States rather than District of Columbia was entitled to escheat of his moneys. *District of Columbia* v. *Wolverton* (1961, 298 F. 2d 684, 112 U.S. App. D.C. 23).

TITLE 19.—WILLS

Chapter 1.—WILLS IN GENERAL

§ 19-103. Form of will—Witnesses—Alteration—Revocation.

NOTES TO DECISIONS

Republication 11.50
Revocation 12

11.50. Republication

Republication merely ratifies will as modified by codicils, and instruments are read together as expressing single act. *M. H. Remon and R. R. Wenzel* v. *American Security & Trust Co., Executor et ano.* (1961, 288 F. 2d 849, 110 U.S. App. D.C. 37).

12. Revocation

One codicil revokes another if such intent is unmistakably clear. *M. H. Remon and R. R. Wenzel* v. *American Security & Trust Co., Executor, et ano.* (1961, 288 F. 2d 849, 110 U.S. App. D.C. 37).

§ 19-108. Revival of will after revocation.

NOTES TO DECISIONS

Republication 2
Revocation 3

2. Republication

Republication merely ratifies will as modified by codicils, and instruments are read together as expressing single act. *M. H. Remon and R. R. Wenzel* v. *American Security & Trust Co., Executor et ano.* (1961, 288 F. 2d 849, 110 U.S. App. D.C. 37).

3. Revocation

One codicil revokes another if such intent is unmistakably clear. *M. H. Remon and R. R. Wenzel* v. *American Security & Trust Co., Executor et ano.* (1961, 288 F. 2d 849, 110 U.S. App. D.C. 37).

Instrument designated as "a" codicil, adding bequest and reaffirming will, which named bank as executor and trustee, did not revoke prior codicil naming testator's wife and daughter as coexecutrices. *Id.*

TITLE 21.—GUARDIAN AND WARD, AND INSANE PERSONS

Chapter 1.—INFANTS AND OTHER INCOMPETENTS

§ 21–101. Natural guardians.

NOTES TO DECISIONS

1. Custody of child

In action by wife for maintenance and support, exclusive custody of minor children of the parties should not have been awarded to wife where husband and wife and the children remained living together in the same household. *R. L. Clements* v. *R. Clements* (D.C. Mun. App. 1962, 184 A. 2d 195).

Chapter 2.—PROPERTY OF INFANTS AND PERSONS NON COMPOS MENTIS

Sec.

§§ 21–214 to 21–224. Omitted.

The act entitled "An Act concerning gifts of securities to minors in the District of Columbia," Aug. 3, 1956, 70 Stat. 1028 to 1031, ch. 947, §§ 1 to 11, set out in the main volume of the Code as §§ 21–214 to 21–224, was amended generally by act Oct. 15, 1962, 76 Stat. 938, Pub. L. 87–821. The act as so amended is set out as sections 21–225 to 21–234 in this supplement. For this reason sections 21–214 to 21–224 are omitted as being superseded by the amended act.

RIGHTS OR LIABILITIES UNDER SECTIONS 214 TO 224 NOT AFFECTED

Section 2(b) of act Oct. 15, 1962, provides as follows: "The amendments made to sections 214 to 224, by the first section of this Act [§§ 225 to 234] shall not affect any right or liability under sections 214 to 224 existing on December 31, 1962."

§ 21–225. Definitions.

As used in sections 21–225 to 21–234, the following terms shall have the meaning ascribed to each:

(1) "Adult": one who has attained the age of twenty-one years.

(2) "Bank": any person or association of persons carrying on the business of banking, whether incorporated or not, in the District of Columbia.

(3) "Broker": one who is lawfully engaged in the business of effecting transactions in securities for the account of others; a bank which effects such transactions; and one who is lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(4) "Court": The United States District Court for the District of Columbia.

(5) "Custodial property":

(A) All securities, money, life insurance and annuity contracts under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in the manner prescribed in sections 21–225 to 21–234;

(B) The income from the custodial property; and

(C) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, or other disposition of such securities, money, life insurance and annuity contracts, and income.

(6) "Custodian": one so designated in the manner prescribed in this Act.

(7) "Guardian of a minor": the general guardian, guardian, tutor, or curator of the minor's property, estate or person.

(8) "Issuer": one who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(9) "Legal representative": the executor or the administrator, general guardian, committee, conservator, tutor, or curator of a person's property or estate.

(10) "Life insurance and annuity contracts": shall include only insurance and annuity contracts on the life of a minor or a member of the minor's family as herein defined.

(11) "Member of a minor's family": any of the minor's parents, grandparents, brothers, sisters, uncles, and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(12) "Minor": one who has not attained the age of twenty-one years.

(13) "Security": any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate, or, in general, any interest or instrument commonly known as a security, or any certificate of interest of participation in, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any

of the foregoing. "Security" does not include a security of which the donor is the issuer. A "security" is in "registered form" when it specifies a person entitled to it or to the right it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(14) "Transfer agent": one who acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of is securities or in the issue of new securities or in the cancellation of surrender securities.

(15) "Trust company": a bank authorized to exercise trust powers. (Oct. 15, 1962, 76 Stat. 938, Pub. L. 87–821, § 1.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

POPULAR NAME

Section 11 of act Oct. 15, 1962, provides as follows: "This Act [sections 21–225 to 21–234] may be cited as the 'District of Columbia Uniform Gifts to Minors Act'."

PRIOR ACT

The act entitled "An Act concerning gifts of securities to minors in the District of Columbia," Aug. 3, 1956, 70 Stat. 1028 to 1031, ch. 947, §§ 1 to 11, set out in the main volume of the Code as §§ 21–214 to 21–224, was amended generally by act Oct. 15, 1962, 76 Stat. 938, Pub. L. 87–821. The act as so amended is set out as sections 21–225 to 21–234 in this supplement. For this reason sections 21–214 to 21–224 are omitted as being superseded by the amended act.

REPEAL

Section 2(a) of act Oct. 15, 1962, provides as follows: "All laws or parts of laws in conflict with any provision of this Act [sections 21–225 to 21–234], are hereby repealed."

Section 2(c) of act Oct. 15, 1962, provides as follows: "Nothing herein shall be deemed to repeal or modify the Internal Revenue Code of 1954, as amended, and the District of Columbia Income and Franchise Tax Act of 1947, as amended."

RIGHTS OR LIABILITIES UNDER SECTIONS 214 TO 224 NOT AFFECTED

Section 2(b) of act Oct. 15, 1962, provides as follows: "The amendments made to sections 214 to 224, by the first section of this Act [§§ 225 to 234] shall not affect any right or liability under sections 214 to 224 existing on December 31, 1962."

§ 21–226. Gifts of securities, money, life insurance, or annuity contracts to minors—Manner of making.

(a) An adult may, during his lifetime, make a gift of a security, money, life insurance or annuity contract to one who is a minor on the date of the gift, if the subject of the gift is a security—

(1) in registered form, by registering it in the name of the donor, another adult, or a trust company, followed, in substance, by the words: "as custodian for (name of minor) under the District of Columbia Uniform Gifts to Minors Act";

(2) not in registered form, by delivering it to an adult other than the donor or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the designated custodian:

GIFT UNDER THE DISTRICT OF COLUMBIA UNIFORM GIFTS TO MINORS ACT

I, (name of donor), hereby deliver to (name of custodian) as custodian for (name of minor) under the District of Columbia Uniform Gifts to Minors Act, the following security(ies); (insert an appropriate description of the security or securities delivered sufficient to identify it or them).

(Signature of donor)

Dated:----------

(Name of custodian) hereby acknowledges receipt of the above described security(ies) as custodian for the above minor under the above Act.

(signature of custodian)

Dated:----------

(3) If the subject of the gift is a life insurance or annuity contract, the ownership of the contract shall be registered by the donor of such contract in his own name or in the name of an adult member of the minor's family or in the name of any guardian of the minor, followed by the words "as custodian for (name of minor) under the District of Columbia Uniform Gifts to Minors Act", and such contract shall be delivered to the person in whose name it is thus registered as custodian. If the contract is registered in the name of the donor as custodian, such registration shall of itself constitute the delivery required by this section.

(4) If the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult, or a bank with trust powers, followed, in substance, by the words: "as custodian for (name of minor) under the District of Columbia Uniform Gifts to Minors Act".

(b) Any gift made in the manner prescribed in subsection (a) may be made to only one minor.

(c) A donor who makes a gift to a minor as prescribed in subsection (a) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian shall affect the consummation of the gift. (Oct. 15, 1962, 76 Stat. 939, Pub. L. 87–821, § 2.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

§ 21–227. Gift irrevocable—Rights and duties of guardian or custodian.

(a) A gift made as prescribed in sections 21–225 to 21–234 shall be irrevocable and convey to the minor indefeasibly vested legal title to the security, money, life insurance or annuity contract given, but no guardian of the minor shall have any right, power, duty, or authority with respect to the custodial property except as provided in sections 21–225 to 21–234.

(b) By making a gift in the manner prescribed in sections 21–225 to 21–234, the donor incorporates in his gift all the provisions thereof and grants to the custodian, and to any issuer, transfer agent, bank, broker, insurance company, or third person dealing with a custodian, the respective powers, rights, and immunities provided in sections 21–225 to 21–234. (Oct. 15, 1962, 76 Stat. 940, Pub. L. 87–821, § 3.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

§ 21–228. Custodian to be one person—Rights, powers, and duties of custodian.

(a) Only one person may be the custodian. He shall collect, hold, manage, invest, and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education, and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(c) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance, or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one years or, if the minor dies before attaining that age, he shall thereupon deliver or pay it over to the estate of the minor.

(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent person of discretion and intelligence who is seeking a reasonable income and the preservation of capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in the manner prescribed in Sections 21–225 to 21–234.

(f) The custodian may sell, exchange, convert, or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices, and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge, or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for (name of minor) under the District of Columbia Uniform Gifts to Minors Act". He shall hold all money which is custodial property in an account with a broker or in a bank in the name of the custodian, followed, in substance, by the same words. He shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

(h) The custodian shall keep records of all transactions with respect to the custodial property, and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen years.

(i) A custodian shall have and hold as powers in trust, with respect to the custodial property, in addition to the rights and powers provided in Sections 21–225 to 21–234, all the rights and powers which a guardian has with respect to property not held as custodial property.

(j) If the subject of the gift is a life insurance or annuity contract, the custodian shall have all of the incidents of ownership in the contract which he may hold as custodian to the same extent as if he were the owner thereof personnally. The designated beneficiary of any such contract held by a custodian shall be the minor or, in the event of his death, the minor's estate. (Oct. 15, 1962, 76 Stat. 940, Pub. L. 87–821, § 4.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

§ 21–229. Compensation of custodian or guardian—Bond—Liability of custodian serving without compensation.

(a) A custodian shall be entitled to reasonable compensation for his services and to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties: *Provided,* That a custodian may act without compensation for his services.

(b) Compensation for the guardian or custodian shall be according to:

(1) Any direction of the donor when the gift is made, provided that it is not in excess of any statutory limitation of the District of Columbia for guardians or custodians;

(2) Any statute of the District of Columbia applicable to custodians or guardians;

(3) Any order of the court.

(c) Except as otherwise provided in sections 21–225 to 21–234, a custodian shall not be required to give a bond for the performance of his duties.

(d) A custodian not compensated for his services shall not be liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing, or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in Sections 21–225 to 21–234. (Oct. 15, 1962, 76 Stat. 941, Pub. L. 87–821, § 5.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

§ 21–230. Successor custodians — Eligibility — Rights, powers, and duties—Manner or resignation—Removal.

(a) Only an adult, a guardian of the minor, or a trust company shall be eligible to become successor custodian. A successor custodian shall have all the rights, powers, duties, and immunities of a

custodian designated in the manner prescribed by Sections 21–225 to 21–234.

(b) A custodian, other than the donor, may resign and designate his successor by—

(1) executing an instrument of resignation designating the successor custodian; and

(2) causing each security which is custodial property and in registered form and each life insurance or annuity contract to be registered in the name of the successor custodian followed, in substance, by the words: "as custodian for (name of minor) under the District of Columbia Uniform Gifts to Minors Act"; and

(3) delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian, each life insurance or annuity contract registered in the name of the successor custodian, and all other custodial property, together with any additional instruments required for the transfer thereof.

(c) A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

(d) If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of twenty-one years, the guardian of the minor shall be successor custodian. If the minor has no guardian, a donor, his legal representative, the legal representative of the custodian, an adult member of the minor's family, or the minor, if he has attained the age of fourteen years, may petition the court for the designation of a successor custodian.

(e) A donor, the legal representative of a donor, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

(f) Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor. (Oct. 15, 1962, 76 Stat. 942, Pub. L. 87–821, § 6.)

EFFECTIVE DATE

Section 3 of the act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

§ 21–231. Accounting by custodian or his legal representative.

(a) The minor, if he has attained the age of fourteen years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

(b) The court, in a proceeding under Sections 21–225 to 21–234 or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof. (Oct. 15, 1962, 76 Stat. 942, Pub. L. 87–821, § 7.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

§ 21–232. Persons dealing with donor or custodian, duties of.

No issuer, transfer agent, bank, broker, insurance company, or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian shall be responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale, or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by Sections 21–225 to 21–234, and shall not be obliged to inquire into the validity or propriety under the provisions of Sections 21–225 to 21–234 of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, and shall not be bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. (Oct. 15, 1962, 76 Stat. 942, Pub. L. 87–821, § 8.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

§ 21–233. Construction of sections 21–225 to 21–234—Sections not exclusive method for making gifts to minors.

(a) The provisions of Sections 21–225 to 21–234 shall be construed to effectuate the general purpose thereof to make uniform the law of those States which enact such provisions.

(b) Sections 21–225 to 21–234 shall not be construed as providing an exclusive method for making gifts to minors. (Oct. 15, 1962, 76 Stat. 942, Pub. L. 87–821, § 9.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

§ 21–234. Separability of provisions.

If any provision of Sections 21–225 to 21–234 or the application thereof is held invalid, the other provisions or applications of such provisions shall not be affected thereby. (Oct. 15, 1962, 76 Stat. 942, Pub. L. 87–821, § 10.)

EFFECTIVE DATE

Section 3 of act Oct. 15, 1962, provides as follows: "This Act shall take effect January 1, 1963."

Chapter 3.—INSANE PERSONS, INQUESTS

§ 21–301. Estates of lunatics—Accounting—Compensation—Dower.

NOTES TO DECISIONS

14. Statute of limitations

Statute of limitations did not begin to run against repayment of loans made to incompetent's estate by estate's committee until committee's death, when account of estate remained open and unsettled throughout committee's tenure up to and including time of his death. *W. H. Clarke, executor etc.* v. *V. K. Hickman, Jr., Committee etc.* (1962, 307 F. 2d 660, — U.S. App. D.C. —).

§ 21–310. Insanity proceedings—Application for writ de lunatico inquirendo, and for observation.

NOTES TO DECISIONS

2. Commitment procedure

Supreme Court granted certiorari, where important questions were raised as to procedure for confining criminally insane in District of Columbia and as to possible constitutional infirmities in statute under which commitment was made as applied to circumstances in case. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S.Ct. 1063, rev'g 288 F. 2d 388).

4.50. Grounds for commitment

Only those who need treatment and may be dangerous may be confined to hospital for mentally ill. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

§ 21–311. Issuance of attachment—Examination.

NOTES TO DECISIONS

1.50. Burden of proof

Burden of proof is on party seeking civil commitment for insanity and only if trier of fact is satisfied that alleged insane person is insane may he be committed. *F. C. Lynch* v. *W. Overholser, Sup't, etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

4. Grounds for commitment

Only those who need treatment and may be dangerous may be confined to hospital for mentally ill. *F. C. Lynch* v. *W. Overholser, Sup't, etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

7.50 Judicial determination required

If accused denies that he is mentally ill, he is entitled to judicial determination of his mental state despite hospital board's certification that he is of unsound mind. *F. C. Lynch* v. *W. Overholser, Sup't, etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

§ 21–315. Commitment after trial.

NOTES TO DECISIONS

.50. Burden of proof

Burden of proof is on party seeking civil commitment for insanity and only if trier of fact is satisfied that alleged insane person is insane may he be committed. *F. C. Lynch* v. *W. Overholser, Sup't, etc.* (1962, — U.S. —, 82 S. Ct. 1063, rev'g 288 F. 388).

.51. District not a voluntary creditor

District of Columbia was entitled to reimbursement for expenses of treatment of incompetent veteran from committee of the veteran from date of her appointment until the veteran was transferred to the rolls of the Veterans Administration which now bears the costs involved, since the District was not a voluntary "creditor" within the statute exempting from claims of "creditors" payments of benefits due or to become due under any law administered by the Veterans Administration. *T. Savoid, Committee etc.* v. *District of Columbia* (1961, 288 F. 2d 851, 110 U.S. App. D.C. 39).

1.50. Grounds for commitment

Only those who need treatment and may be dangerous may be confined to hospital for mentally ill. *F. C. Lynch* v. *W. Overholser, Sup't, etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

2. Habeas corpus

Findings, on habeas corpus application for release from mental institution to which petitioner had been confined upon his acquittal for insanity, that petitioner was free from mental disease and mental defect and could not be dangerous by reason of any mental disease or defect did not meet standards required by statute in not containing finding of freedom from such abnormal mental condition as would make individual dangerous to himself or community in reasonably foreseeable future, irrespective of fact that his mental health might have improved. *W. Overholser* v. *H. T. O'Bierne* (1962, 302 F. 2d 852, 112 U.S. App. D.C. 267).

That one confined to mental institution because of his acquittal of criminal charges for insanity would no longer be committable under civil procedure could constitute no ground for his release where there was no showing that he had recovered to point where he was free from abnormal mental condition or that his release would not expose himself or public to danger in reasonably foreseeable future. *Id.*

Evidence adduced by petitioner seeking release on habeas corpus from mental institution to which he had been confined pursuant to his acquittal of criminal charges for insanity was insufficient to establish that he had made necessary recovery to point where he would be free from abnormal mental condition or that his release would not expose him or public to danger in reasonably foreseeable future. *Id.*

3. Judicial determination required

If accused denies that he is mentally ill, he is entitled to judicial determination of his mental state despite hospital board's certification that he is of unsound mind. *F. C. Lynch v. W. Overholser, Sup't, etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

§ 21–318. Liability of relatives for costs of maintenance and treatment.

NOTES TO DECISIONS

2.50. District not a voluntary creditor

District of Columbia was entitled to reimbursement for expenses of treatment of incompetent veteran from committee of the veteran from date of her appointment until the veteran was transferred to the rolls of the Veterans Administration which now bears the costs involved, since the District was not a voluntary "creditor" within the statute exempting from claims of "creditors" payments of benefits due or to become due under any law administered by the Veterans Administration. *T. Savoid, Committee etc.* v. *District of Columbia* (1961, 288 F. 2d 851, 110 U.S. App. D.C. 39).

§ 21–320. Hearing to restore status of paroled person—Petition—Trial—Decision.

NOTES TO DECISIONS

1.50. Discretionary relief

Patient who, after adjudication that she was of unsound mind, eloped from District of Columbia mental hospital and subsequently recovered mental health, had no right, in seeking restoration to status of person of sound mind, to statutory hearing before Mental Health Commission, or, since she was free, to habeas corpus, but was entitled to discretionary relief within court's inherent power. *In re Harriet DuBois* (1962, 207 F. Supp. 909).

§ 21–325. Existing remedies preserved.

NOTES TO DECISIONS

1. Discretionary relief

Patient who, after adjudication that she was of unsound mind, eloped from District of Columbia mental hospital and subsequently recovered mental health, had no right, in seeking restoration to status of person of sound mind, to statutory hearing before Mental Health Commission, or, since she was free, to habeas corpus, but was entitled to discretionary relief within court's inherent power. *In re Harriet DuBois* (1962, 207 F. Supp. 909).

§ 21–326. Apprehension and detention by police, without warrant, of insane persons found in public places.

NOTES TO DECISIONS

1.50. Burden of proof

Burden of proof is on party seeking civil commitment for insanity and only if trier of fact is satisfied that alleged insane person is insane may he be committed. *F. C. Lynch* v. *Overholser, Sup't, etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

4.50. Judicial determination required

If accused denies that he is mentally ill, he is entitled to judicial determination of his mental state despite hospital board's certification that he is of unsound mind. *F.C. Lynch* v. *W. Overholser, Sup't, etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

§ 21–327. Arrest at other than public places.

NOTES TO DECISIONS

3. Sufficiency of evidence

If one adjudged insane never saw or talked with physicians who filed affidavits prior to his arrest, and spoke only momentarily after arrest to physician who testified that examination disclosed need for hospital care, adjudication of insanity must be vacated. *In re R. V. Helman* (1961, 288 F. 2d 159, 109 U.S. App. D.C. 375).

Chapters 5.—CONSERVATORS

§ 21–501. Appointment of conservators.

NOTES TO DECISIONS

1. Redemption by conservator

Neither conservator nor his ward must wait for removal of legal disability to redeem property from tax sale, and conservator may not be denied right to redeem in proper case because he is conservator, under District of Columbia statutes. *Shenandoah Corp.* v. *E. F. Jackson* (1962, 298 F. 2d 324, 111 U.S. App. D.C. 410).

§ 21–503. Powers and duties of conservator.

NOTES TO DECISIONS

2. Redemption by conservator

Neither conservator nor his ward must wait for removal of legal disability to redeem property from tax sale, and conservator may not be denied right to redeem in proper case because he is conservator, under District of Columbia statutes. *Shenandoah Corp.* v. *E. F. Jackson* (1962, 298 F. 2d 324, 111 U.S. App. D.C. 410).

PART IV

CRIMINAL LAW AND PROCEDURE

TITLE 22.—CRIMINAL OFFENSES

Chapter 1.—GENERAL PROVISIONS

§ 22–105. Persons advising, inciting, or conniving at criminal offense to be charged as principals.

NOTES TO DECISIONS

.50. Accessory after fact

Defendant could be convicted as accessory after fact, even though he was present before, during and after crime. *J. S. Smith* v. *United States* (1962, 306 F. 2d 286, — U.S. App. D.C. —).

3. Aid and abet

Evidence supported conviction of defendant, who at no time struck or pushed assault victim during altercation between victim, defendant and two others, and who could not be said by victim to have joined the other two in searching victim's pockets, for assault either on theory that concert of action by defendant and the other two threatened or menaced the victim or that defendant aided and abetted the other two. *J. T. Rogers and B. F. Herring* v. *United States* (D.C. Mun. App. 1961, 174 A. 2d 356).

Aiding and abetting assault renders one guilty of crime even if he does not actively participate. *Id.*

4. Charged as principal

Where defendants are charged as principals under aiding and abetting statute, act of one defendant is act of each. *E. E. Turberville, B. T. Williams and J. H. Simpson* v. *United States* (1962, 303 F. 2d 411, 112 U.S. App. D.C. 400, cert. denied 82 S. Ct. 1596).

6. Instructions

Testimony of assault victim that defendant and two other men were "after" him authorized instruction to jury on theory of aiding and abetting even if defendant's actions did not assume proportions of assault. *J. T. Rogers and B. F. Herring* v. *United States* (D.C. Mun. App. 1961, 174 A. 2d 356).

§ 22–106. Accessories after the fact.

NOTES TO DECISIONS

1. Accessory after fact

Defendant could be convicted as accessory after fact, even though he was present before, during and after crime. *J. S. Smith* v. *United States* (1962, 306 F. 2d 286, — U.S. App. D.C. —).

Chapter 4.—ARSON

§ 22–403. Malicious burning, destruction, or injury of another's movable property.

NOTES TO DECISIONS

3.50. Inference of malice

Malice in damaging of right front vent of automobile window could be inferred from intentional wrongdoing and value of property could be inferred from evidence respecting its useful, functional purpose. *F. L. Paige* v. *United States* (D.C. Mun. App. 1962, 183 A. 2d 759).

Chapter 5. — ASSAULT — MAYHEM — THREAT OF BODILY HARM

§ 22–501. Assault with intent to kill, rob, rape, or poison.

NOTES TO DECISIONS

3. Evidence—Sufficiency

Evidence was sufficient to show requisite intent in prosecution for assault with intent to commit robbery. *R. Oden* v. *United States* (1961, 295 F. 2d 547, 111 U.S. App. D.C. 201).

3.50. Identity of victim

It was not necessary to allege identity of person sought to be robbed where defendant was charged with assault to commit robbery, and such information, if desired by defendant, should have been sought by motion for a bill of particulars. *S. E. Young* v. *United States* (1961, 288 F. 2d 398, 109 U.S. App. D.C. 414).

§ 22–504. Assault or threatened assault in a menacing manner.

NOTES TO DECISIONS

.50. Aid and abet

Evidence supported conviction of defendant, who at no time struck or pushed assault victim during altercation between victim, defendant and two others, and who could not be said by victim to have joined the other two in searching victim's pockets, for assault either on theory that concert of action by defendant and the other two threatened or menaced the victim or that defendant aided and abetted the other two. *J. T. Rogers and B. F. Herring* v. *United States* (D.C. Mun. App. 1961, 174 A. 2d 356).

Aiding and abetting assault renders one guilty of crime even if he does not actively participate. *Id.*

4.50. Cross-examination

Although goal of counsel of defendants charged with assault was to show victim's real background by examining him concerning his employment history and experience, ordering discontinuance of such line of questioning after a recitation that victim had worked at last employment for 8 months, before that for 6 months at another employment and still earlier at a third employment was justified to avoid needless preoccupation with collateral matters. *J. T. Rogers and B. F. Herring* v. *United States* (D.C. Mun. App. 1961, 174 A. 2d 356).

While cross-examination is basic right, it is subject to reasonable regulation by court in interest of orderly and expeditious trial. *Id.*

Cross-examination is an absolute right. *J. Bandoni* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 748).

In prosecution for assault, cross-examination of the prosecutrix respecting her past experiences, emotional history and background to shed light on her testimonial reliability was not unduly curtailed. *Id.*

6. Admissibility of evidence

Exclusion of testimony as to victim's prior specific acts of violence, communicated to but not personally observed, by defendant who was accused of assault and claimed self-defense, was error. *J. M. King* v. *United States* (D.C. Mun. App. 1962, 177 A. 2d 912).

In prosecution for assault or homicide accused may show prior acts of violence by alleged victim to support claim of self-defense. *Id.*

Time alone is not controlling in determining the spontaneity of an exclamation, and of equal importance is whether the declaration was influenced by external circumstances of physical shock or stress of nervous excitement. *J. Bandoni* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 748).

Admitting testimony of witness as to her conversation with the assaulted complainant though more than an hour occurred between the assault and the report to the witness was not error as violating the hearsay rule. *Id.*

9. Corroboration

Testimony of complaining witness in prosecution for assault was sufficiently corroborated. *D. Konvalinka* v. *United States* (1961, 287 F. 2d 346, 109 U.S. App. D.C. 307; aff'g 162 A. 2d 778).

15. Instructions

Testimony of assault victim that defendant and two other men were "after" him authorized instruction to jury on theory of aiding and abetting even if defendant's actions did not assume proportions of assault. *J. T. Rogers and B. F. Herring* v. *United States* (D.C. Mun. App. 1961, 174 A. 2d 356).

Failure to instruct jury as to effect of five-hour delay in reporting alleged assault to the police was not error where no such instruction was requested. *J. Bandoni* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 748).

19. Review

Defendant prosecuted for assault was not entitled to a continuance and trial before a new jury panel because members thereof were prejudiced in that on the day before defendant's trial his wife was convicted by a jury for carrying a dangerous weapon and the defendant's and wife's jury were selected from the same array, where the defendant's contention had no support in the record. *J. Bandoni* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 748).

§ 22–505. Assault on member of police force.

NOTES TO DECISIONS

1.50 Evidence

Evidence sustained conviction for assaulting and interfering with an officer of the metropolitan police department engaged in performance of his official duties. *I. R. Lawson* v. *United States* (1962, 301 F. 2d 520, 112 U.S. App. D.C. 196).

§ 22–507. Threats to do bodily harm.

NOTES TO DECISIONS

1. Evidence—Admissibility

Admission of testimony that defendant charged with threatening to do bodily harm to complainant had made prior threats to do bodily harm and to shoot her was admissible to show state of mind of defendant and complainant. *C. B. McDonald* v. *United States* (D.C. Mun. App. 1962, 183 A. 2d 396).

Generally, evidence of offense wholly independent of crime charged is inadmissible, but such evidence is admissible where acts are so blended or connected with the one on trial that proof of one incidentally involves the other, they explain the circumstances of offense charged, or they tend to logically prove any element of the offense. *Id.*

Evidence of conduct prior to commission of alleged crime is admissible if so related or connected with crime as to establish common scheme of purpose, the pursuance of a single object, or defendant's guilty knowledge, intent, or motive. *Id.*

Chapter 9.—DOMESTIC RELATIONS

§ 22–901. Cruelty to children.

NOTES TO DECISIONS

4. Instructions

Failure to instruct that jury was required to find beyond a reasonable doubt that defendant was under a legal duty to supply food and necessities to infant before they could find her guilty of manslaughter in failing to provide such items was plain error. *M. L. Jones* v. *United States* (1962, 308 F. 2d 307, — U. S. App. D.C. —).

Finding of legal duty was critical element of crime of involuntary manslaughter based on breach of legal obligation to provide food and necessities to an infant, with such failure resulting in his death. *Id.*

§ 22–903. Willful neglect or refusal to support wife or minor child—Punishment—Order of allowance—Recognizance—Trial under original charge.

NOTES TO DECISIONS

.50. Abuse of Discretion

No abuse of discretion appeared in denial of motion to withdraw guilty plea to nonsupport charge against defendant who, though he had previously pleaded guilty to similar charge, contended that he did not recognize significance of charge and that failure to support was due to financial inability. *W. Campbell Jr.* v. *United States* (D.C. Mun. App. 1961, 168 A. 2d 532).

Chapter 11.—DISORDERLY CONDUCT

§ 22–1107. Unlawful assembly—Profane and indecent language.

NOTES TO DECISIONS

1. Evidence

Admission, in prosecution for using profane, indecent and obscene language, disorderly conduct, and making rude and obscene gestures, of witnesses' conclusions that language was profane, obscene and indecent was reversible error, even though proof of actions may have been sufficient to sustain conviction. *C. P. Heilman, Jr.* v. *District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 141).

§ 22–1112. Lewd, indecent, or obscene acts.

NOTES TO DECISIONS

Act committed in privacy 1
Evidence 4
Corroboration of evidence 5
Intent 8
Public place 8.50
Res Judicata 9.50

1. Act committed in privacy

Nudity is not per se "obscene", and it is not illegal for a man to be completely unclothed in his room; it becomes so only if he intentionally exposes himself to other persons. *C. A. Hearn* v. *District of Columbia* (D.C. Mun. App. 1962, 178 A. 2d 434).

4. Evidence

Evidence of government which presented two women complainants, who testified they saw defendant exposing himself, positively identifying him as maintenance man in their apartment development, was sufficient to sustain finding of his guilt of obscene and indecent exposure notwithstanding his production of five alibi witnesses. *R. Campbell* v. *District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 557).

5. Corroboration of evidence

Testimony of police officers who had observed commission of indecent act constituted valid corroboration of alleged act. *L. R. Herland* v. *District of Columbia* (D.C. Mun. App. 1962, 182 A. 2d 362).

8. Intent

Evidence disclosed that defendant, who appeared without clothes in early morning hours at second floor window of his hot and oppressive room at rear of hotel overlooking seemingly uninhabited alley area and who was observed by several police officers and room clerk, did not

deliberately and intentionally expose himself, so that he was not guilty of obscene or indecent exposure. *C. A. Hearn* v. *District of Columbia* (D.C. Mun. App. 1962, 178 A. 2d 434).

An exposure becomes indecent when it occurs at such a time and place where reasonable man knows or should know his act will be open to observation of others; the required criminal intent is usually established by some action by which defendant draws attention to his exposed condition or by display in place so public that it must be presumed it was intended to be seen by others. *Id.*

8.50. Public place

Unlocked wash room in hotel in which indecent act occurred was a public place, and fact that other participant willingly engaged did not relieve defendant from guilt in committing such act in public. *L. R. Herland* v. *District of Columbia* (D.C. Mun. App. 1962, 182 A. 2d 362).

9.50. Res judicata

The acquittal of defendant of charge of committing an indecent act precluded the government, as a matter of law, from relying on the evidence relating to this alleged indecent act to support its charge of an alleged indecent exposure on the same night. *C. A. Hearn* v. *District of Columbia* (D.C. Mun. App. 1962, 178 A. 2d 434).

§ 22–1121. Disorderly conduct—Generally.

NOTES TO DECISIONS

1. Construction

Defendant in ordering followers into hostile audience to stop heckling of speech and assault of one spectator as direct result of defendant's command to his followers, authorized conviction of disorderly conduct. *G. L. Rockwell* v. *District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 549).

1.50. Evidence

Admission, in prosecution for using profane, indecent and obscene language, disorderly conduct, and making rude and obscene gestures, of witnesses' conclusions that language was profane, obscene and indecent was reversible error, even though proof of actions may have been sufficient to sustain conviction. *C. P. Heilman, Jr.* v. *District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 141).

3. Intent

Under statute, one lacking intent to be disorderly may nevertheless be guilty if conduct is such that breach of peace may be occasioned thereby. *G. L. Rockwell* v. *District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 549).

Chapter 13.—FALSE PRETENSES—FALSE PERSONATION

§ 22–1301. False pretenses.

NOTES TO DECISIONS

9. Evidence

Evidence was sufficient to sustain conviction on charge of false pretenses in connection with a stock and worthless check transaction. *H. N. Kelly, Jr.* v. *United States* (1961, 297 F. 2d 437, 111 U.S. App. D.C. 360).

11.50. Inconsistent offenses

Under District of Columbia law, grand larceny and false pretenses are not inconsistent offenses. *P. A. Skantze* v. *United States* (1961, 288 F. 2d 416, 110 U.S. App. D.C. 14).

21.50. Proceeds of check

Embassy employee who, with intent to steal, represented to superiors that money was needed for embassy's cash account and thus procured their signatures to checks, the proceeds of which he kept for himself, falsifying entries in cash journal to cloak transaction, was guilty of false pretenses and grand larceny, under District of Columbia law. *P. A. Skantze* v. *United States* (1961, 288 F. 2d 416, 110 U.S. App. D.C. 14).

Chapter 14.—FORGERY—FRAUDS

§ 22–1401. Forgery.

NOTES TO DECISIONS

7.50 Evidence

Reception, in forgery prosecution, of exhibit consisting of card completed voluntarily by defendant while in custody on which he had listed prior arrests, received to permit comparison of handwriting with that on checks, was prejudicially erroneous and required new trial notwithstanding that it was not clear that jury saw card and that there was other evidence of his guilt. *R. E. Leigh* v. *United States* (1962, 308 F. 2d 345, — U.S. App. D.C. —).

§ 22–1410. Making, drawing, or uttering check, draft, or order with intent to defraud—Proof of intent—"Credit" defined.

NOTES TO DECISIONS

4.50. Recovery on bond

The word "trading" in clause excluding trading loss from coverage of brokers' bond meant buying and selling of securities on customer's account, and loss occurring when brokers' employee accepted order to purchase substantial amount of stock for customer who gave bad check was such a loss. *L. Sade et al.* v. *National Surety Corp.* (1962, 203 F. Supp. 680).

Chapter 15.—GAMBLING

§ 22–1501. Lotteries—Promotion—Sale or possession of tickets.

NOTES TO DECISIONS

2. Admissibility of evidence—Arrest, search and seizure

Evidence which was seized in room wherein defendant, charged with violations of gambling laws, was arrested was admissible where it was relevant and material, although defendant claimed that others apparently not associated with unlawful venture occupied house and that warrant authorizing search of entire house was too broad in description of premises. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

4. Arrest, search and seizure—In general

Personal observations of suspicious conduct of defendant, charged with violations of gambling laws, during careful investigation, together with information received, gave probable cause for issuance of search warrant and warrant for arrest. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

§ 22–1502. Possession of lottery or policy tickets.

NOTES TO DECISIONS

2. Admissibility of evidence—Arrest, search and seizure

Evidence which was seized in room wherein defendant, charged with violations of gambling laws, was arrested was admissible where it was relevant and material, although defendant claimed that others apparently not associated with unlawful venture occupied house and that warrant authorizing search of entire house was too broad in description of premises. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

4. Arrest, search and seizure—In general

Personal observations of suspicious conduct of defendant, charged with violations of gambling laws, during careful investigation, together with information received, gave probable cause for issuance of search warrant and warrant for arrest. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

4.50. Confrontation of informer

Defendant, accused of receiving stolen goods and of possession of lottery tickets, was not entitled to confront and cross-examine informer, upon whose information search warrant was in part based, where warrant was issued upon an ample showing of probable cause. *O. M. Madre* v. *United States* (D.C. Mun. App. 1961, 173 A. 2d 917).

17. Sufficiency of evidence

Evidence sustained conviction of receiving stolen goods. *O. M. Madre* v. *United States* (D.C. Mun. App. 1961, 173 A. 2d 917).

§ 22–1505. Gambling premises—Definition—Prohibition against maintaining—Forfeiture—Liens—Deposit of moneys in Treasury—Penalty—Subsequent Offenses.

* * * * *

(c) All moneys, vehicles, furnishings, fixtures, equipment, stock (including, without limitation, furnishings and fixtures adaptable to nongambling uses, and equipment and stock for printing, recording, computing, transporting, safekeeping, or communication), or other things of value used or to be used—

(1) in carrying on or conducting any lottery, or the game or device commonly known as a policy lottery or policy, contrary to the provisions of section 22–1501;

(2) in setting up or keeping any gaming table, bank, or device contrary to the provisions of 22–1504; or

(3) in maintaining any gambling premises,

shall be subject to seizure by any member of the Metropolitan Police force, or the United States Park Police, or the United States marshal, or any deputy marshal, for the District of Columbia, and any property seized regardless of its value shall be proceeded against in the municipal court for the District of Columbia by libel action brought in the name of the District of Columbia by the Corporation Counsel or any of his assistants, and shall, unless good cause be shown to the contrary, be forfeited to the District of Columbia and shall be made available for the use of any agency of the government of the District of Columbia, or otherwise disposed of as the Commissioners of the District of Columbia may, by order or by regulation, provide: *Provided,* That if there be bona fide liens against the property so forfeited, then such property shall be disposed of by public auction. The proceeds of the sale of such property shall be available, first, for the payment of all expenses incident to such sale; and, second, for the payment of such liens; and the remainder shall be deposited in the Treasury of the United States to the credit of the District of Columbia. To the extent necessary, liens against said property so forfeited shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property.

* * * * *

(Sept. 21, 1961, 75 Stat. 540, Pub. L. 87–259, § 1.)

CHANGE OF NAME

Act Oct. 23, 1962, section 1, eff. Jan. 1, 1963, changed the name of the Municipal Court for the District of Columbia to "District of Columbia Court of General Sessions". See section 11–751a.

AMENDMENT

1961—Section 1 of act Sept. 21, 1961, amended subsection (c) so as to give the Municipal Court for the District of Columbia jurisdiction over libel actions involving such seized property regardless of its value and also providing that the action be brought in the name of the District of Columbia by the Corporation Counsel or any of his assistants. The act made other amendments as well. See original subsection (c) in main volume.

CONSTRUCTION OF ACT SEPT. 21, 1961, AND DELEGATION OF AUTHORITY

Section 2 of act Sept 21, 1961, provided that: "This Act [amending subsection (c)] shall not be considered as affecting the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824), and the performance of any function vested by said plan in the Board of Commissioners or in any office or agency under the jurisdiction and control of said Board of Commissioners shall continue to be subject to delegation by said Board of Commissioners in accordance with section 3 of such plan. Any function vested by this Act in any agency established pursuant to such plan shall be deemed to be vested in said Board of Commissioners and shall be subject to delegation in accordance with said plan."

NOTES TO DECISIONS

2. Arrest, search and seizure

Personal observations of suspicious conduct of defendant, charged with violations of gambling laws, during careful investigation, together with information received, gave probable cause for issuance of search warrant and warrant for arrest. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

4. Evidence—Admissibility

Evidence which was seized in room wherein defendant, charged with violations of gambling laws, was arrested was admissible where it was relevant and material, although defendant claimed that others apparently not associated with unlawful venture occupied house and that warrant authorizing search of entire house was too broad in description of premises. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

§ 22–1508. Gambling pools and book making—Athletic contest defined.

NOTES TO DECISIONS

4. Evidence

Evidence which was seized in room wherein defendant, charged with violations of gambling laws, was arrested was admissible where it was relevant and material, although defendant claimed that others apparently not associated with unlawful venture occupied house and that warrant authorizing search of entire house was too broad in description of premises. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

6. Search and seizure

Personal observations of suspicious conduct of defendant, charged with violations of gambling laws, during careful investigation, together with information received, gave probable cause for issuance of search warrant and warrant for arrest. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

Chapter 18.—HOUSEBREAKING

§ 22–1801. Definition and penalty.

NOTES TO DECISIONS

3. Arrest without warrant

Probable cause is not to be evaluated from remote vantage point of library but from viewpoint of prudent

and cautious police officer on scene at time, and question to be answered is whether such an officer, in particular circumstances, conditioned by his observations and information and guided by whole of his police experience, reasonably could have believed that crime had been committed by person to be arrested. *S. Jackson, Jr.* v. *United States* (1962, 302 F. 2d 194, 112 U.S. App. D.C. 260).

Police are entitled to rely upon hearsay and upon various other factors which would not be admissible in evidence against accused at trial in determining whether there is probable cause for arrest. *Id.*

Total information available to officers, with respect to defendant charged with housebreaking and grand larceny, including separate accusations by two persons that he had been source of stolen gun, together with one of their recollections of rhinestone bracelet in defendant's closet, matching description of similar object on list of stolen property, reasonably warranted a belief that he had probably committed felonious acts in which gun and bracelet were originally stolen, and such, together with practical necessities of pursuit, justified his arrest without warrant. *Id.*

3.50. Corpus delicti

Corpus delicti under count charging homicide in perpetration of a housebreaking did not require independent proof that death occurred in perpetration of housebreaking. *United States* v. *J. A. Naples* (1961, 192 F. Supp. 23; rev'd 307 F. 2d 618).

5. Evidence—Admissibility

Where same evidence was used to connect defendant with crimes charged in counts two, three, and four as was employed in count one, and such evidence was ruled inadmissible on appeal from judgment of conviction on count one, new trial ordered by Court of Appeals for count one, should embrace all four counts. *United States* v. *J. A. Naples* (1962, 205 F. Supp. 944).

6. Evidence

Evidence sustained defendant's conviction of housebreaking and petit larceny. *United States* v. *J. A. Naples* (1961, 192 F. Supp. 23; rev'd 307 F. 2d 618).

6.50. —— Suppression

Ordinarily, one seeking to challenge legality of search or seizure must establish that he was victim of alleged invasion of privacy. *F. Hair & J. I. Burroughs* v. *United States* (1961, 289 F. 2d 894, 110 U.S. App. D.C. 153).

Evidence obtained under warrant issued on basis of observations derived by police officers from illegal entry is inadmissible. *Id.*

7. Witnesses, evidence

Where prosecution's case rested largely upon testimony of a sole key eyewitness and there was ample ground for suspicion of inconsistencies in eyewitness' identification, trial judge abused his discretion in failing to order production of those parts of the witness' grand jury testimony relating to same subject testified to at trial. *W. E. De Binder* v. *United States* (1961, 292 F. 2d 737, 110 U.S. App. D.C. 244).

9. Instructions

District court in housebreaking prosecution did not err in refusing instruction on lesser offenses, where request was not made until conclusion of charge and did not specify any particular offenses or show their inclusion within offense charged. *L. Britton* v. *United States* (1962, 301 F. 2d 531, 112 U.S. App. D.C. 207).

15.50. Voluntary confession

Evidence established that defendant's confession made at jail to police officer was voluntary. *United States* v. *J. A. Naples* (1961, 192 F. Supp. 23).

Chapter 20.—INDECENT PUBLICATIONS

§ 22–2001. Definition and penalty.

NOTES TO DECISIONS

1.50. Bill of particulars

Refusal to grant bill of particulars was not abuse of discretion where informations referred with specificity to times and places of performances claimed to violate obscene exhibitions statute, and defendant revealed complete familiarity with acts charged. *S. Yankowitz* v. *United States* (D.C. Mun. App. 1962, 182 A. 2d 889).

1.51. Consolidation of charges

Defendant could be charged with three offenses of violating obscene exhibitions statute and was not entitled to proceed to trial on but one information, and the three separate informations were properly combined for trial, where there were three separate shows each involving elements essential to support violation of the statute. *S. Yankowitz* v. *United States* (D.C. Mun. App. 1962, 182 A. 2d 889).

3.50. Instructions

Error, if any, in instructing that president of corporation operating restaurant with stage show consisting of three female impersonators could be convicted of violation of obscene exhibitions statute if he knew or should have known nature and character of the "premises" was harmless where jury was explicitly charged that intent was essential element of the crime. *S. Yankowitz* v. *United States* (D.C. Mun. App. 1962, 182 A. 2d 889).

Statement in charge to jury that material charged in indictment was, in court's opinion, actually obscene in eyes of law did not require reversal of obscenity conviction, considering whole charge which left issue of obscenity for jury and stated that judge's comments on evidence were not binding on jury. *A. J. Heinecke* v. *United States* (1931, 294 F. 2d 727, 111 U.S. App. D.C. 98).

4.50. Public trial

In prosecution for possessing obscene pictures with intent to exhibit them, defendant's right to a public trial was not denied because when the alleged obscene film was shown in court the public, except newspaper reporters, were excluded. *B. W. Lancaster* v. *United States* (1961, 293 F. 2d 519, 110 U.S. App. D.C. 331).

6. Sufficiency of evidence

Evidence sustained conviction of charge of giving or participating, on three separate occasions, in public exhibitions containing obscene, indecent, or lascivious language, postures, or suggestions, or otherwise offending public decency. *S. Yankowitz* v. *United States* (D.C. Mun. App. 1962, 182 A. 2d 889).

28. Witnesses, evidence

Where prosecution's case rested largely upon testimony of a sole key eyewitness and there was ample ground for suspicion of inconsistencies in eyewitness' identification, trial judge abused his discretion in failing to order production of those parts of the witness' grand jury testimony relating to same subject testified to at trial. *W. E. De Binder* v. *United States* (1961, 292 F. 2d 737, 110 U.S. App. D.C. 244).

Chapter 22.—LARCENY—RECEIVING STOLEN GOODS

§ 22–2201. Grand larceny.

NOTES TO DECISIONS

1.50 Arrest without warrant

Probable cause is not to be evaluated from remote vantage point of library but from viewpoint of prudent and cautious police officer on scene at time, and question to be answered is whether such an officer, in particular circumstances conditioned by his observations and information and guided by whole of his police experience, reasonably could have believed that crime had been committed by person to be arrested. *S. Jackson, Jr.* v. *United States* (1962, 302 F. 2d 194, 112 U.S. App. D.C. 260).

Police are entitled to rely upon hearsay and upon various other factors which would not be admissible in evidence against accused at trial in determining whether there is probable cause for arrest. *Id.*

Total information available to officers, with respect to defendant charged with housebreaking and grand larceny, including separate accusations by two persons that he had been source of stolen gun, together with one of their recollections of rhinestone bracelet in defendant's closet, matching description of similar object on list of stolen property, reasonably warranted a belief that he had probably committed felonious acts in which gun and bracelet were originally stolen, and such, together with practical necessities of pursuit, justified his arrest without warrant. *Id.*

9.50. Inconsistent offenses

Under District of Columbia law, grand larceny and false pretenses are not inconsistent offenses. *P. A. Skantze* v. *United States* (1961, 288 F. 2d 416, 110 U.S. App. D.C. 14).

12. Instructions

In grand larceny prosecution, instruction on petit larceny was unnecessary where there was nothing in evidence to indicate value of less than $100. *W. Chew* v. *United States* (1962, 298 F. 2d 334, 112 U.S. App. D.C. 6).

14.50. Larceny by conversion

One who obtains money from another upon representation that he will perform certain service therewith for the latter, intending at the time to convert the money, and actually converting it, to his own use, is guilty of larceny. *P. A. Skantze* v. *United States* (1961, 288 F. 2d 416, 110 U.S. App. D.C. 14).

18.50. Proceeds of check

Embassy employee who, with intent to steal, represented to superiors that money was needed for embassy's cash account and thus procured their signatures to checks, the proceeds of which he kept for himself, falsifying entries in cash journal to cloak transaction, was guilty of false pretenses and grand larceny, under District of Columbia law. *P. A. Skantze* v. *United States* (1931, 288 F. 2d 416, 110 U.S. App. D.C. 14).

20.50. Search and seizure

Probable cause for arrest existed when driver of automobile, who started to drive away without his lights on, was stopped by police and dome light showed articles in automobile which had just been reported stolen from another automobile in the area as driver got out to show officers his registration card, and such probable cause was sufficient to support search and seizure of reportedly stolen articles. *R. A. Campbell, Jr.* v. *United States* (1961, 289 F. 2d 775, 110 U.S. App. D.C. 109).

§ 22-2202. Petit larceny—Order of restitution.

NOTES TO DECISIONS

1. Arrest without warrant

Probable cause is not to be evaluated from remote vantage point of library but from viewpoint of prudent and cautious police officer on scene at time, and question to be answered is whether such an officer, in particular circumstances, conditioned by his observations and information and guided by whole of his police experience, reasonably could have believed that crime had been committed by person to be arrested. *S. Jackson, Jr.* v. *United States* (1962, 302 F. 2d 194, 112 U.S. App. D.C. 260).

Police are entitled to rely upon hearsay and upon various other factors which would not be admissible in evidence against accused at trial in determining whether there is probable cause for arrest. *Id.*

Total information available to officers, with respect to defendant charged with housebreaking and grand larceny, including separate accusations by two persons that he had been source of stolen gun, together with one of their recollections of rhinestone bracelet in defendant's closet, matching description of similar object on list of stolen property, reasonably warranted a belief that he had probably committed felonious acts in which gun and bracelet were originally stolen, and such, together with practical necessities of pursuit, justified his arrest without warrant. *Id.*

9. Plea of guilty

Failure to move to withdraw guilty plea to misdemeanor charge made while defendant was 20 years old would not foreclose him from making motion to withdraw plea on contention that it had not been knowingly and intelligently made as he had not understood that he could be sentenced under Youth Corrections Act for longer period than year sentence provided for misdemeanor charge but court reviewing conviction would remand case to give him opportunity to move district court for leave to withdraw plea. *R. B. Carter* v. *United States* (1962, 306 F. 2d 283, — U.S. App. D.C. —).

11.50. Search and seizure

Probable cause for arrest existed when driver of automobile, who started to drive away without his lights on, was stopped by police and dome light showed articles in automobile which had just been reported stolen from another automobile in the area as driver got out to show officers his registration card, and such probable cause was sufficient to support search and seizure of reportedly stolen articles. *R. A. Campbell, Jr.* v. *United States* (1961, 289 F. 2d 775, 110 U.S. App. D.C. 109).

§ 22-2203. Larceny after trust.

NOTES TO DECISIONS

.50. Delivery of property

For purposes of statute providing punishment for one guilty of larceny after trust, delivery of property to defendant by owner's vendor, acting for owner, was tantamount to delivery by owner; but even if it were not, defendant would not be entitled to acquittal, since statute does not require delivery by owner. *United States* v. *A. Manolias* (1961, 190 F. Supp. 234).

3.50. Independent contractor

Independent contractor, who had been entrusted with property and who had complete dominion and control over it for purpose of installing it in connection with electrical work which he had contracted to do, was not a mere custodian of property and could be convicted of larceny after trust. *United States* v. *A. Manolias* (1961, 190 F. Supp. 234).

§ 22-2204. Unauthorized use of vehicles.

NOTES TO DECISIONS

4. Evidence

Evidence was sufficient to show ownership of automobile and corporate existence of owner and to sustain conviction of unauthorized use of automobile without consent of owner. *J. C. Dixon* v. *United States* (1961, 292 F. 2d 768, 110 U.S. App. D.C. 275).

Admission of evidence beyond scope of bill of particulars as to date when automobile was first known to be missing was not error, in prosecution for unauthorized use of automobile without consent of owner. *Id.*

§ 22-2205. Receiving stolen goods.

NOTES TO DECISIONS

3. Evidence—Admissibility

Evidence that defendant, charged with receiving stolen property, had on previous occasion knowingly received stolen property was admissible for limited purpose of showing intent and guilty knowledge. *W. J. Blackburn* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 254).

3.50. Confrontation of informer

Defendant, accused of receiving stolen goods and of possession of lottery tickets, was not entitled to confront and cross-examine informer, upon whose information search warrant was in part based, where warrant was issued upon an ample showing of probable cause. *O. M. Madre* v. *United States* (D.C. Mun. App. 1961, 173 A. 2d 917).

4. —— Corroboration

Uncorroborated testimony of shoplifters as to origin and ownership of goods, while normally of questionable reliability, is sufficient, if believed, to warrant conviction for receiving stolen goods. *M. A. Payne* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 509).

4.50. Guilty knowledge

Accused's knowledge of goods' true character may be inferred from great disparity between sale price and prevailing price for similar or identical goods. *M. A. Payne* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 509).

5. —— Sufficiency

Evidence sustained conviction of receiving stolen goods. *O. M. Madre* v. *United States* (D.C. Mun. App. 1961, 173 A. 2d 917).

Chapter 23.—LIBEL—BLACKMAIL

§ 22–2305. Blackmail.

NOTES TO DECISIONS

5. Sufficiency of evidence

Evidence was sufficient to present question for jury as to whether defendant, who allegedly threatened to tell complaining witness' wife that he had caused pregnancy of another woman, was guilty of blackmail. *U. Salley* v. *United States* (1962, 306 F. 2d 814, — U.S. App. D.C. —).

Chapter 24.—MURDER—MANSLAUGHTER

§ 22–2401. Murder in the first degree—Purposeful killing—Killing while perpetrating certain crimes.

CROSS REFERENCES

Punishment for first and second degree murder, see § 22–2404.

NOTES TO DECISIONS

1. Arraignment

Defendant's convictions for robbery and felony-murder would not be deemed secured through information obtained in violation of rule requiring prompt arraignment, or in violation of due process and speedy trial amendments to the federal Constitution, where defendant was presented in court on day he surrendered, no confession by defendant was introduced against him, evidence established all basic elements of the crimes, and defendant took the stand and described his participation in the robbery and fatal shooting. *W. C. Coleman* v. *United States* (1961, 295 F. 2d 555, 111 U.S. App. D.C. 210).

5. Confessions

Defendant accused of homicide failed to sustain burden of proving that his prior statement was improperly admitted at trial on ground that it was made after committing magistrate had failed to comply with rule relating to defendant's right to know charge against him and to retain counsel. *E. E. Turberville, B. T. Williams and J. H. Simpson* v. *United States* (1962, 303 F. 2d 411, 112 U.S. App. D.C. 400, cert. denied 82 S. Ct. 1596).

7. Corpus delicti

Corpus delicti under count charging homicide in perpetration of a housebreaking did not require independent proof that death occurred in perpetration of housebreaking. *United States* v. *J. A. Naples* (1961, 192 F. Supp. 23; rev'd 307 F. 2d 618).

11. Admissibility of evidence

Evidence of one defendant's activities prior to alleged homicide was admissible in prosecution of three defendants for such homicide, in view of close proximity, in time, place and persons between such activities and subsequent homicide. *E. E. Turberville, B. T. Williams and J. H. Simpson* v. *United States* (1962, 303 F. 2d 411, 112 U.S. App. D.C. 400, cert. denied 82 S. Ct. 1596).

11. Evidence—Admissibility

Where same evidence was used to connect defendant with crimes charged in counts two, three and four as was employed in count one, and such evidence was ruled inadmissible on appeal from judgment of conviction on count one, new trial ordered by Court of Appeals for count one, should embrace all four counts. *United States* v. *J. A. Naples* (1962, 205 F. Supp. 944).

11.50. Evidence—Burden of proof

Where defendant, accused of murder and robbery, introduced evidence that on date thereof he was suffering from mental disease or defect, it became duty of government to prove him sane beyond reasonable doubt at the time of commission of crimes charged. *H. S. Carey* v. *United States* (1961, 296 F. 2d 442, 111 U.S. App. D.C. 300).

12. Evidence—Sufficiency

Evidence sustained conviction for second degree murder. *E. E. Turberville, B. T. Williams and J. H. Simpson* v. *United States* (1962, 303 F. 2d 411, 112 U.S. App. D.C. 400, cert. denied 82 S. Ct. 1596).

Evidence sustained conviction for robbery and felony-murder. *W. C. Coleman* v. *United States* (1961, 295 F. 2d 555, 111 U.S. App. D.C. 210).

14. Housebreaking

Killing of deceased by defendant as he was securing loot and preparing to leave premises into which he had broken was a homicide committed in perpetration of housebreaking. *United States* v. *J. A. Naples* (1961, 192 F. Supp. 23; rev'd 307 F. 2d 618).

15. Indictment

An indictment charging a defendant with felony-murder, charged first degree murder, even though indictment omitted an allegation to the effect that accused was of sound memory and discretion. *W. C. Coleman* v. *United States* (1961, 295 F. 2d 555, 111 U.S. App. D.C. 210).

An indictment charging first degree murder was not defective, even though it did not contain the phrase "being of sound memory and discretion." *W. Jones* v. *United States* (1961, 296 F. 2d 398, 111 U.S. App. D.C. 276).

An allegation of sanity is not required in an indictment. *Id.*

16. Instructions

Failing to instruct that jury might return a second degree murder verdict, was not error, in a felony-murder prosecution, where accused and his brother robbed a store proprietor, accused took some money and fled, and in immediate close and continuous pursuit, police officers followed accused up to instant of killing of one of the officers by accused. *W. C. Coleman* v. *United States* (1961, 295 F. 2d 555, 111 U.S. App. D.C. 210).

19. Jury

Evidence in homicide prosecution on issue of defendant's defense of insanity was for jury. *E. E. Turberville, B. T. Williams and J. H. Simpson* v. *United States* (1962, 303 F. 2d 411, 112 U.S. App. D.C. 400, cert. denied 82 S. Ct. 1596).

Evidence, in felony-murder prosecution, presented jury question as to whether there was such an "arrest" of accused prior to killing of an officer, as to break essential link between the robbery and the killing, and such issue was properly submitted to jury under instructions explaining the issue and what constituted arrest. *W. C. Coleman* v. *United States* (1961, 295 F. 2d 555, 111 U.S. App. D.C. 210).

23.50. Prejudicial cross-examination

In murder prosecution wherein sole defense was insanity, and defendant's gibberish testimony was such as to raise issues as to whether defendant feigned such testimony and whether at time of the third trial his mental condition represented his condition at time of act charged, cross-examination disclosing defendant's failure to take stand at two previous trials which resulted in convictions was erroneous and was not harmless but was sufficiently prejudicial to warrant the granting of a

mistrial even though defense made no request for cautionary instructions. *W. L. Stewart* v. *United States* (1961, 366 U.S. 1, 81 S. Ct. 941; reversing 275 F. 2d 617).

24. Prejudicial error

In prosecution of three defendants for homicide, request by counsel for one defendant that jury return lesser verdict than that charged in indictment was not prejudicial to another defendant who persistently denied any participation in offense, in view of subsequent instructions that evidence be considered separately as to each defendant and defendant's failure to object to such remarks. *E. E. Turberville, B. T. Williams and J. H. Simpson* v. *United States* (1962, 303 F. 2d 411, 112 U.S. App. D.C. 400, cert. denied 82 S. Ct. 1596).

35. Verdict

It was within prerogative of jury to acquit, on a felony-murder charge, a codefendant who was not present at scene of the killing, and to return a verdict of guilty of felony-murder as to defendant, even though both defendants were found guilty of the same robbery and even though jury could have returned a felony-murder verdict of guilty as to both defendants. *W. C. Coleman* v. *United States* (1961, 295 F. 2d 555, 111 U.S. App. D.C. 210).

37. Voluntary confession

Evidence established that defendant's confession made at jail to police officer was voluntary. *United States* v. *J. A. Naples* (1961, 192 F. Supp. 23; rev'd 307 F. 2d 618).

§ 22–2402. Murder in the first degree—Placing obstructions upon or displacement of railroad.

CROSS REFERENCE

Punishment for first and second degree murder, see § 22–2404.

§ 22–2403. Murder in second degree.

CROSS REFERENCE

Punishment for first and second degree murder, see § 22–2404.

§ 22–2404. Punishment for murder in first and second degrees.

The punishment of murder in the first degree shall be death by electrocution unless the jury by unanimous vote recommends life imprisonment; or if the jury, having determined by unanimous vote the guilt of the defendant as charged, is unable to agree as to punishment it shall inform the court and the court shall thereupon have jurisdiction to impose and shall impose either a sentence of death by electrocution or life imprisonment.

Notwithstanding any other provision of law, a person convicted of first degree murder and upon whom a sentence of life imprisonment is imposed shall be eligible for parole only after the expiration of twenty years from the date he commences to serve his sentence.

Whoever is guilty of murder in the second degree shall be imprisoned for life or not less than twenty years.

Cases tried prior to March 22, 1962, and which are before the court for the purpose of sentence or resentence shall be governed by the provisions of law in effect prior to March 22, 1962: *Provided,* That the judge may, in his sole discretion, consider circumstances in mitigation and in aggravation and make a determination as to whether the case in his opinion justifies a sentence of life imprisonment, in which event he shall sentence the defendant to life imprisonment. Such a sentence of life imprisonment shall be in accordance with the provisions of this Act.

In any case tried under this Act as amended where the penalty prescribed by law upon conviction of the defendant is death except in cases otherwise provided, the jury returning a verdict of guilty may by unanimous vote fix the punishment at life imprisonment; and thereupon the court shall sentence him accordingly; but if the jury shall not thus prescribe the punishment the court shall sentence the defendant to suffer death by electrocution unless the jury by its verdict indicates that it is unable to agree upon the punishment, in which case the court shall sentence the defendant to death or life imprisonment. (Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 801; Jan. 30, 1925, 43 Stat. 798, ch. 115, § 1; Mar. 22, 1962, 76 Stat. 46, Pub. L. 87–423, § 1.)

AMENDMENT

Act Mar. 22, 1962, amended section to read as above set out. Prior to this amendment the section read as follows: "The punishment of murder in the first degree shall be death by electrocution. The punishment of murder in the second degree shall be imprisonment for life, or for not less than twenty years."

INTERNAL REFERENCES

Act referred to in this section is act of Mar. 22, 1962, and the basic act of Mar. 3, 1901, classified to various parts of this Code (see distribution tables). For other provisions of act Mar. 3, 1901, dealing with crimes which may be punishable by death or imprisonment for life, see sections 22–201, 22–2401 to 22–2403 and 22–2801.

CROSS REFERENCE

For other provisions providing minimum sentences upon imposition of life sentence, see § 24–203.

NOTES TO DECISIONS

3.50. Prejudicial cross-examination

In murder prosecution wherein sole defense was insanity, and defendant's gibberish testimony was such as to raise issues as to whether defendant feigned such testimony and whether at time of the third trial his mental condition represented his condition at time of act charged, cross-examination disclosing defendant's failure to take stand at two previous trials which resulted in convictions was erroneous and was not harmless but was sufficiently prejudicial to warrant the granting of a mistrial even though defense made no request for cautionary instructions. *W. L. Stewart* v. *United States* (1961, 366 U.S. 1, 81 S. Ct. 941; reversing 275 F. 2d 617).

§ 22–2405. Punishment for manslaughter.

NOTES TO DECISIONS

Confession .50
Right to counsel 7

.50. Confession

Confession secured from defendant during thirty-four-hour period between his arrest and his appearance before commissioner would be suppressed because of such delay. *United States* v. *J. W. Killough* (1961, 193 F. Supp. 905).

Any confessions which result from illegal detention, no matter how voluntary or trustworthy, are excluded from evidence. *Id.*

A defendant's second confession, after appearance before a commissioner, following illegal detention, could not be excluded on theory it was product of a deliberate police attempt to subvert Rules of Criminal Procedure, where the confession was made to a police officer who did not approach defendant with purpose of securing a reaffirmation of invalid confessions defendant made prior to appearance before a committing magistrate. *Id.*

7. Right to counsel

Police can interrogate a suspect before giving him an opportunity to secure counsel. *United States* v. *J. W. Killough* (1961, 193 F. Supp. 905).

Action of an official in allowing a police officer to see defendant during adjournment of a preliminary hearing, but before he had seen counsel was not a violation of the commitment order, the Federal Rules of Criminal Procedure, and the constitutional bar against self-incrimination and guarantee of right to counsel, and did

not render admissions made by defendant during such conversation inadmissible. *Id.*

The Rules of Criminal Procedure give an accused who has funds to hire counsel the right to do so, and right to have a preliminary hearing, should he desire one with counsel's assistance, postponed until he secures that assistance.

Constitutional privilege against self-incrimination did not give illegally detained defendant an absolute right to see counsel before a valid confession could be given by him, or to have counsel present with him at time he made a confession. *Id.*

Chapter 25.—PERJURY

§ 22–2501. Perjury—Subornation of perjury.

NOTES TO DECISIONS

Predication of indictment 20.50
Sufficiency of indictment 23.50

20.50. Predication of indictment

A perjury indictment could not be grounded upon a knowingly false answer to a question placed by superintendent of insurance, in an application for a license to act as an insurance solicitor. *C. S. Nelson* v. *United States* (1961, 288 F. 2d 376, 109 U.S. App. D.C. 392).

23.50 Sufficiency of indictment

Indictment charging defendant generally in statutory language, with three counts of perjury, would be deemed sufficient, especially where record indicated that defendant had not been misled or prejudiced in his defense, and had not moved for a bill of particulars. *C. S. Nelson* v. *United States* (1961, 288 F. 2d 376, 109 U.S. App. D.C. 392).

Chapter 27.—PROSTITUTION—PANDERING

§ 22–2701. Prostitution—Inviting for purposes of, prohibited.

NOTES TO DECISIONS

4. Evidence

Evidence sustained conviction of soliciting for purpose of prostitution. *R. Golden* v. *United States* (D.C. Mun. App. 1961, 167 A. 2d 796).

§ 22–2705. Pandering—Inducing or compelling female to become prostitute or engage in prostitution—Penalty.

NOTES TO DECISIONS

3.50. Instructions

Where trial court had not reviewed or commented upon evidence in his charge to jury and elements essential to convict were explained without reference to any aspect of evidence and counsel prior to charge failed to formulate desired instruction, refusing oral request that the charge be enlarged to include a specific reference to defendant's theory of the evidence was not reversible error. *C. O. Clarke* v. *United States* (1962, 301 F. 2d 543, 112 U.S. App. D.C. 219).

§ 22–2707. Procurer—Punishment for receiving money or other valuable thing for arranging assignation or debauchery—Penalty.

NOTES TO DECISIONS

9.50. Fair trial

Defendants were not denied fair trial in prosecutions for violating Mann Act and for receiving money for arranging for acts of prostitution, because of actions of trial court and Assistant United States Attorney. *J. A. Fabianich and M. E. Fabianich* v. *United States* (1962, 302 F. 2d 904, 112 U.S. App. D.C. 319).

Sentences were valid, though trial court allegedly erred in denying motions for acquittal on certain counts, where there were concurrent sentences, and convictions under other courts were not challenged. *Id.*

§ 22–2722. Keeping bawdy or disorderly houses.

NOTES TO DECISIONS

Arrest 2
Disorderly house 3.50
Evidence 4

2. Arrest

Affidavits supporting application for warrant for arrest for operation of disorderly house alleged sufficient facts to establish probable cause for arrest. *W. H. Wood and M. J. Blue* v. *United States* (D.C. Mun. App. 1962, 183 A. 2d 563).

Where apparent facts set out in affidavits supporting application for warrant for arrest are such that reasonably discreet and prudent man would be lead to believe that offense charged was committed, there is probable cause justifying issuance of warrant; determination whether offense has been committed or evidence tendered is so strong as to justify ultimate conviction is not necessary. *Id.*

Parade of males into defendant's apartment and her past criminal record as convicted madam and vagrant provided adequate justification for issuance of warrant for arrest resulting in prosecution for keeping disorderly house. *C. J. Bennett, etc.* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 252).

3.50. Disorderly house

"Disorderly house" is one where acts are performed which tend to corrupt morals of community or promote breaches of peace. *M. A. Payne* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 509).

Elements necessary to sustain conviction for maintaining disorderly house are that acts are contrary to law and subversive of public morals, that house is commonly resorted to for commission of such acts, and that proprietor knows, or should in reason, know facts and either procures it to be done, connives at it, or does not prevent it. *Id.*

Conduct sufficient to sustain conviction for maintaining disorderly house need not disrupt peace and quiet or be open to public observation so long as it would be offensive to public sensibilities if its presence in community were generally known. *Id.*

4. Evidence

Registration cards seized in search of tourist home in connection with arrest for operating it as disorderly house were admissible as having direct bearing upon the operation. *W. H. Wood and M. J. Blue* v. *United States* (D.C. Mun. App. 1962, 183 A. 2d. 563).

Use of chart, which was not admitted as exhibit or taken to jury room, in connection with testimony concerning registration cards taken from tourist home allegedly used as disorderly house, in order that jury could more conveniently view, during trial, information on cards, was not prejudicial. *Id.*

Evidence supported conviction for operating as a disorderly house a tourist home to which constant stream of couples came, especially late at night, on foot, in taxis, or by private automobile, without luggage and in many instances oddly dressed and at which they stayed for brief periods not exceeding two and one-half hours. *Id.*

Evidence sustained conviction for keeping disorderly house. *C. J. Bennett, etc.* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 252).

Evidence sustained conviction of maintaining disorderly house. *M. A. Payne* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 509).

Testimony on single act of prostitution in house and unlawful sales prior to period specified in information were admissible in prosecution for maintaining disorderly house. *Id.*

Chapter 28.—RAPE

§ 22–2801. Definition and penalty.

CROSS REFERENCE

Punishment for first and second degree murder, see § 22–2404.

NOTES TO DECISIONS

15.50. —— Suppression

Ordinarily, one seeking to challenge legality of search or seizure must establish that he was victim of alleged invasion of privacy. *F. Hair & J. I. Burroughs* v. *United States* (1961, 289 F. 2d 894, 110 U.S. App. D.C. 153).

Evidence obtained under warrant issued on basis of observations derived by police officers from illegal entry is inadmissible. *Id.*

Chapter 29.—ROBBERY

§ 22–2901. Robbery.

NOTES TO DECISIONS

3.50. Cross-examination

Cross-examination of defendant's wife, concerning her alleged statements to officers, although she had said nothing of these matters on direct examination and they did not directly challenge her direct testimony, was not proper on any ground and required reversal, despite sufficiency of other evidence and lack of objection, and was not cured by instruction that testimony could be considered only on question of wife's credibility. *C. Dixon* v. *United States* (1962, 303 F. 2d 226, 112 U.S. App. D.C. 366).

8. —— Burden of proof

Where defendant, accused of murder and robbery, introduced evidence that on date thereof he was suffering from mental disease or defect, it became duty of government to prove him sane beyond reasonable doubt at the time of commission of crimes charged. *H. S. Carey* v. *United States* (1961, 296 F. 2d 422, 111 U.S. App. D.C. 300).

12. Evidence—Suppression

Ordinarily, one seeking to challenge legality of search or seizure must establish that he was victim of alleged invasion of privacy. *F. Hair & J. I. Burroughs* v. *United States* (1961, 289 F. 2d 894, 110 U.S. App. D.C. 153).

Evidence obtained under warrent issued on basis of observations derived by police officers from illegal entry is inadmissible. *Id.*

19.50. "Person" defined

Victim of homicide, even though dead, was "person" within robbery statute under circumstances where time interval between stabbing and taking of money from her body was short, and even if intent of taking money did not occur until after she was dead perpetrator could properly be convicted of robbery. *H. S. Carey* v. *United States* (1961, 296 F. 2d 422, 111 U.S .App. D.C. 300).

20.50. Pre-sentence investigation

Imposition of maximum sentence just after guilty verdicts were rendered against defendants, one of whom was 21 years of age and the other 19 years of age, was improper, vacation of sentences at suggestion of United States and reimposition thereafter of same sentences was not curative of procedure followed, sentences must be vacated and pre-sentence investigation must be made with opportunity to present information in mitigation of punishment. *Peters and Mills* v. *United States* (1962, 307 F. 2d 193, — U.S. App. D.C. —).

22. Questions for jury

Evidence upon question whether defendant was not quilty of robbery by reason of insanity was sufficient to raise jury question. *E. C. Campbell* v. *United States* (1962, 307 F. 2d 597, — U.S. App. D.C. —).

Chapter 31.—TRESPASS—INJURIES TO PROPERTY

§ 22–3102. Unlawful entry on property.

NOTES TO DECISIONS

6. Reasonable cause for arrest

Court in prosecution for unlawful entry was not required to inquire into legality or illegality of defendant's arrest, where no evidence was obtained as result of arrest. *L. E. Smith* v. *United States* (D.C. Mun. App. 1961, 173 A. 2d 739).

§ 22–3112. Destroying or defacing buildings, statues, monuments, offices, dwellings, and structures.

NOTES TO DECISIONS

3.50. Prosecutions by United States Attorney

United States Attorney for District of Columbia rather than Corporation Counsel for District was the attorney who should prosecute offense of destroying private property in violation of the District of Columbia Code, where the offense was punishable by fine not to exceed $100, or imprisonment not to exceed six months, or both. *District of Columbia* v. *Moody, Hill and Hamilton* (1962, 304 F. 2d 943 — U.S. App. D.C. —).

5. Variance in proof

There was no fatal variance between information charging defendant with defacing doors of elevator in private building by drawing, marking and writing sign or figure thereon and proof which showed that defendant, who did not ask for any further particulars, put stickers on door. *J. Patler, etc.* v. *District of Columbia* (D.C. Mun. App. 1961, 171 A. 2d 508).

Chapter 32.—WEAPONS

§ 22–3204. Carrying concealed weapons.

NOTES TO DECISIONS

9.50. Illegal search

Impounding of automobile, which motorist had parked in front of police station after being ordered to follow police officers to police precinct, was not authorized under regulation permitting impounding of unattended vehicles found parked in violation of traffic regulation, and pistol discovered in search of automobile was not admissible. *D. A. Williams* v. *United States* (D.C. Mun. App. 1961, 170 A. 2d 233).

19.50. Search and seizure

Removal of unlicensed pistol from floor of parked automobile did not constitute an unreasonable search and seizure where officer, who discovered pistol lying in plain view on automobile floor, was making an investigation at scene of reported burglary and after noticing defendant's keys in ignition in violation of law had opened automobile door to remove keys. *C. A. Campbell* v. *United States* (D.C. Mun. App. 1961, 174 A. 2d 87).

Chapter 33.—VAGRANCY

§ 22–3302. "Vagrants" defined.

NOTES TO DECISIONS

1. Authority of police officer

A person found loitering has duty to give a good account of himself. *C. H. Kelley* v. *United States* (1961, 298 F. 2d 310, 111 U.S. App. D.C. 396).

7. Evidence

Evidence was insufficient to sustain vagrancy conviction. *E. R. Harris* v. *District of Columbia* (D.C. Mun. App. 1961, 167 A. 2d 359).

Evidence sustained conviction of being a vagrant. *Y. Pinkney* v. *District of Columbia* (D.C. Mun. App. 1961, 168 A. 2d 198).

8. Admissibility of evidence

For purposes of showing a continued course of immorality in vagrancy prosecution, prior acts and admissions of defendant showing defendant's acts to be part of a continuous operation were properly admitted. *G. Coley etc.* v. *District of Columbia* (D.C. Mun. App. 1962, 177 A. 2d 889).

Evidence sustained finding of habitually immoral conduct on part of defendant and sustained conviction for vagrancy. *Id.*

11. Sufficiency of evidence

Evidence was insufficient to prove elements necessary to support conviction for vagrancy under District of Columbia code denominating as vagrants persons leading immoral life and who have no lawful employment or lawful means of support and persons who operate or who are employed in houses of ill fame. *Baker and Fredricksen* v. *District of Columbia* (D.C. Mun App. 1962, 184 A. 2d 198).

13. Lawful means of support

Budren of defendants, charged with vagrancy, of proving lawful means of support does not arise until prosecution has proven other elements of offense. *Baker and Fredricksen* v. *District of Columbia* (D.C. Mun. App. 1962, 184 A. 2d 198).

14. Nature of vagrancy

"Vagrancy" consists of a continued course of immorality, a pattern in iniquity, rather than a solitary incidence of wrong-doing. *G. Coley etc.* v. *District of Columbia* (D.C. Mun. App. 1962, 177 A. 2d 889).

§ 22–3304. Penalty—Conditions imposed by court.

NOTES TO DECISIONS

1. Indigent prisoners, discharge of

Sentence for violation of District of Columbia vagrancy statute was for violation of "law of United States" within Indigent Prisoners' Act authorizing indigent prisoner, who has been sentenced for violation of any "law of United States," and who has been imprisoned for failure to pay fine, and who has been confined for 30 days, to apply for discharge. *D. C. Clemmer, Director, Department of Corrections etc.* v. *N. H. Alexander* (1961, 295 F. 2d 176, — U.S. App. D.C. —).

Municipal Court of District of Columbia is "court established by enactment of Congress" within Indigent Prisoners' Act authorizing indigent prisoner who has been imprisoned by "court established by enactment of Congress" for failure to pay fine, and who has been confined for 30 days, to apply for discharge. *Id.*

Chapter 34.—MISCELLANEOUS

§ 22–3401. Omitted.

Sec. act Leg. Assembly, Aug. 23, 1871, p. 96, ch. 69, § 21, defined a "Gift enterprise". Since act Sept. 21, 1961, Pub. L. 87–267, § 1, repealed sections 22–3402 and 22–3403 which made it unlawful to engage in a "gift enterprise" business and imposed certain penalties for so doing, this section is now obsolete and is therefore omitted.

§§ 22–3402, 22–3403. Repealed. Sept. 21, 1961, 75 Stat. 565, Pub. L. 87–267, § 1.

Section R.S., D.C., § 1176, made it unlawful to engage in a gift enterprise as defined in section 22–3401.

Section R.S., D.C., § 1177, imposed penalties for engaging in any gift-enterprise business in the District.

§ 22–3407. Repealed. Aug. 13, 1962, 76 Stat. 360, Pub. L. 87–581, § 203.

Section act Mar. 3, 1901, 31 Stat. 1334, ch. 854, § 892, fixed the hours of work for laborers and mechanics on public works.

The repealing act also provided that the provisions of the repealed statutes shall continue to apply with respect to contracts existing on the effective date of the repealing act or entered into pursuant to invitations for bids outstanding at the time of enactment of repealing act.

Effective date of act repealing this section is 60 days after its enactment. [Aug. 13, 1962.]

CROSS REFERENCE

Provisions establishing standards for hours of work and overtime pay of laborers and mechanics employed on work done under contract for, or with the financial aid of, the United States, for any territory, or for the District of Columbia, see title 40, §§ 327 to 332, and title 5, § 673c, of the U.S. Code.

§ 22–3408. Repealed. Aug. 13, 1962, 76 Stat. 360, Pub. L. 87–581, § 203.

Section of act Mar. 3, 1901, 31 Stat. 1334, ch. 854, § 893, prescribed the penalties for violation of section 22–3407.

Effective date of act repealing this section is 60 days after its enactment. [Aug. 13, 1962.]

§ 22–3423. Use, by private detective or collection agencies, of the words "District of Columbia", "District," the initials "D.C.," to create impression that agency represents the District, is prohibited.

No person engaged in the business of collecting or aiding in the collection of private debts or obligations, or engaged in furnishing private police, investigation, or other private detective services, shall use as part of the name of such business, or employ in any communication, correspondence, notice, advertisement, circular, or other writing or publication, the words "District of Columbia", "District", the initials "D.C.", or any emblem or insignia utilizing any of the said terms as part of its design, in such manner as reasonably to convey the impression or belief that such business is a department, agency, bureau, or instrumentality of the municipal government of the District of Columbia or in any manner represents the District of Columbia. As used in this section and section 22–3424, the word "person" means and includes individuals, associations, partnerships, and corporations. (Oct. 16, 1962, 76 Stat. 1071, Pub. L. 87–837, § 1.)

§ 22–3424. Penalty for violation of section 22–3423.

Any person who violates section 24–3423 shall be punished by a fine of not more than $300 or by imprisonment for not more than ninety days, or by both such fine and imprisonment. (Oct. 16, 1962, 76 Stat. 1071, Pub. L. 87–837, § 2.)

§ 22–3245. Prosecutions for violations of section 22–3423—Corporation Counsel defined.

All prosecutions for violations of section 22–3423 shall be conducted in the name of the District of Columbia by the Corporation Counsel or any of his assistants. As used in this section the term "Corporation Counsel" means the attorney for the District of Columbia, by whatever title such attorney may be known, designated by the Board of Commissioners of the District of Columbia to perform the functions prescribed for the Corporation Counsel in this section. (Oct. 16, 1962, 76 Stat. 1071, Pub. L. 87–837, § 3.)

Chapter 35.—SEXUAL PSYCHOPATHS

§ 22–3502. Sodomy.

NOTES TO DECISIONS

REVIEW

Record on appeal from sodomy conviction, challenged on grounds of sufficiency of evidence presented by government, revealed no error affecting substantial rights of accused. *W. Hehl* v. *United States* (1960, 288 F. 2d 131, 109 U.S. App. D.C. 346).

§ 22–3503. Definitions.

NOTES TO DECISIONS

1.50. Construction

"Injury" within statute defining sexual psychopath as person who has evidenced such lack of power to control sexual impulses as to be dangerous to persons because he

is likely to attack or otherwise inflict injury, loss, pain or other evil, includes injury to feelings and "pain" includes mental suffering. *C. W. Carras* v. *District of Columbia* (D.C. Mun. App. 1962, 183 A. 2d. 393).

§ 22–3508. Hearing—Commitment to Saint Elizabeths Hospital.

NOTES TO DECISIONS

1.50. Bail

Trial court has power to permit one adjudged sexual psychopath to remain at liberty on bond pending appeal. *C. W. Carras* v. *District of Columbia* (D.C. Mun. App. 1962, 183, A. 2d 393).

Question of right of defendant adjudged to be sexual psychopath to bail pending appeal was moot, where case was in reviewing court and ready for disposition adverse to defendant on merits so that no practical relief could be given as to bail.

2. Confinement

Notwithstanding psychiatrists' report and testimony of one psychiatrist to effect that defendant, arrested for indecent exposure, would not physically attack any one in any manner, in view of fact defendant had twice before been committed for similar offenses, defendant was properly committed as sexual psychopath. *C. W. Carras* v. *District of Columbia* (D.C. Mun. App. 1962, 183 A. 2d 393).

3.50. Evidence—Sufficiency

Evidence sustained finding that defendant arrested for indecent exposure was sexual psychopath. *C. W. Carras* v. *District of Columbia* (D.C. Mun. App. 1962, 183 A. 2d 393).

TITLE 23.—CRIMINAL PROCEDURE

Chapter 1.—GENERAL PROVISIONS

§ 23–101. Conduct of prosecutions—Party plaintiff.

NOTES TO DECISIONS

4. Prosecution by United States Attorney

United States Attorney for District of Columbia rather than corporation counsel for District was the attorney who should prosecute offense of destroying private property in violation of the District of Columbia Code, where the offense was punishable by fine not to exceed $100, or imprisonment not to exceed six months, or both. *District of Columbia* v. *Moody, Hill and Hamilton* (1962, 304 F. 2d 943, — U.S. App. D.C. —).

§ 23–102. Conduct of prosecutions—Certification to Court of Appeals.

NOTES TO DECISIONS

1. Certification by judge

Where question as to proper prosecuting authority as between District of Columbia Corporation Counsel and United States Attorney is raised, the court must certify question to Court of Appeals for District of Columbia, and Municipal Court of Appeals was required to reverse action of Municipal Court in dismissing informations brought by Corporation Counsel after ruling that United States Attorney was proper prosecuting authority and the court would remand with instructions to reinstate informations and to certify questions to Court of Appeals. *District of Columbia* v. *Moody, Hill & Hamilton* (D.C. Mun. App. 1961, 175 A. 2d 782).

§ 23–105. Appeals by United States and District of Columbia.

NOTES TO DECISIONS

4. Double jeopardy

Dismissal of embezzlement prosecution for "want of prosecution" was not equivalent to a finding that defendant had been denied his constitutional right to speedy trial. *J. P. Mann* v. *United States* (1962, 304 F. 2d 394, — U.S. App. D.C. —).

§ 23–106. Bail—Deposit—Forfeiture.

NOTES TO DECISIONS

2. Excessive bail

Requiring defendant, convicted of traffic violation for which $5 fine was imposed, to post $200 bail bond pending appeal, was improper. *H. W. Starr* v. *District of Columbia* (D.C. Man. App. 1962, 176 A. 2d 878).

Amount of bail must bear some reasonable relation to purpose for which it is given. *Id.*

§ 23–107. Peremptory challenges.

NOTES TO DECISIONS

4. Joint defendants

Defendant was not entitled to three peremptory challenges in selecting jury, in addition to those allowed codefendant; the defendants were properly treated as one defendant in allowance and exercise of challenges. *S. Yankowitz* v. *United States* (D.C. Mun. App. 1962, 182 A. 2d 889).

Chapter 3.—SEARCH WARRANTS AND ARREST

§ 23–301. Issuance upon complaint under oath—Contents—Warrant—Affidavit—Form.

NOTES TO DECISIONS

8. Probable cause

Personal observations of suspicious conduct of defendant, charged with violations of gambling laws, during careful investigation, together with information received, gave probable cause for issuance of search warrant and warrant for arrest. *J. Minowitz* v. *United States* (1962, 298 F. 2d 682, 112 U.S. App. D.C. 21).

Allegations in affidavits upon basis of which a search warrant was issued, to the effect, among other things, that certain drugs were delivered to a certain person in a certain apartment, were sufficient to create probable cause and justify issuance of search warrant for items described. *G. C. Hunt* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 515).

10. Search—Validity

Defendant, allegedly a known felon, was under unlawful arrest when he answered officers' call to come out of restaurant although he had been committing no offense, not even loitering, and evidence then produced on demand that he reveal content of pocket was unlawfully seized. *C. H. Kelley* v. *United States* (1961, 298 F. 2d 310, 111 U.S. App. D.C. 396).

Items not described in a search warrant but discovered in course of search made pursuant to such warrant were admissible in evidence. *G. C. Hunt* v. *United States* (D.C. Mun. App. 1961, 171 A. 2d 515).

When a lawful search is executed pursuant to a lawful search warrant, contraband may be seized although not specifically described in the warrant. *Id.*

Premises under control of a person arrested may be searched contemporaneously as an incident to the arrest, and material seized as a result of such search may be introduced in evidence, even though not described in a search warrant. *Id.*

10. Validity of search

Where two plain-clothes men and complaining witness went to defendant's home with intention of making a search, if possible, for stolen goods and not to talk with him about reports of his possible involvement in three robberies, seizure of stolen property found in apartment was not incident to lawful arrest and was unlawful and could not be justified by exceptional circumstances and fruits of search were inadmissible in criminal prosecution. *United States* v. *E. E. Evans* (1961, 194 F. Supp. 90).

Defendant's invitation to "come on in" made to two plain-clothes men and complaining witnesses did not constitute a consent to search of apartment, and defendant did not waive any right to complain that search violated the Fourth Amendment. *Id.*

Chapter 6.—PROFESSIONAL BONDSMEN

§ 23–608. Qualifications of bondsmen—Rules to be prescribed by courts—List of agents to be furnished—Renewal of authority to act—Detailed records to be kept—Penalties and disqualifications.

NOTES TO DECISIONS

2.50. Moral turpitude

"Moral turpitude", within statute precluding licensing as a bondsman a person convicted of any offense involving moral turpitude, includes crimes in which fraud was an ingredient. *In the Matter of Nathaniel Madden* (D.C. Mun. App. 1962, 184 A. 2d 204).

Conviction of an offense involving moral turpitude precludes qualification for licensing of a bondsman, and courts have no latitude or discretion in the matter. *Id.*

Conviction for fraudulent filing of Federal income tax returns was conviction of an offense involving "moral turpitude," within statute precluding licensing as a bondsman a person convicted of an offense involving moral turpitude. *Id.*

TITLE 24.—PRISONERS AND THEIR TREATMENT

Chapter 2.—INDETERMINATE SENTENCES AND PAROLES

§ 24-206. Revocation of parole after retaking—Hearing—New parole.

NOTES TO DECISIONS

1. Appearance and hearing

Alleged parole violator was entitled to present testimony of witnesses appearing voluntarily. *G. J. Reed, Chairman, U.S. Board of Parole et al.* v. *L. D. Butterworth* (1961, 297 F. 2d 776, 111 U.S. App. D.C. 365).

10. Right to counsel

Alleged parole violator was entitled to counsel at hearing. *G. J. Reed, Chairman, U.S. Board of Parole et al.* v. *L. D. Butterworth* (1961, 297 F. 2d 776, 111 U.S. App. D.C. 365).

Chapter 3.—INSANE CRIMINALS

§ 24-301. Commitment of persons of unsound mind to the District of Columbia General Hospital—Certification to the court—Acquittal by jury on grounds of insanity—Confinement in a mental institution—Conditions for release after confinement—Conditional release—Expenses—Writ of habeas corpus—Inconsistent provisions of Federal Statutes superseded.

NOTES TO DECISIONS

.50. Acceptance of guilty plea

Where psychiatrist's report on defendant's competency to stand trial on bad check charge had included statement that defendant's crimes were product of specified mental disease particularly affecting financial judgment and that defendant required further treatment to insure against repetition of the offenses, court properly refused to accept plea of guilty and proceeded to trial to determine that defendant was not guilty by reason of insanity, though defendant had been judicially declared competent to stand trial and to assist in his own defense. *W. Overholser, Sup't etc.* v. *F. C. Lynch* (1961, 288 F. 2d 388, 109 U.S. App. D.C. 404; rev'd 1962, 82 S. Ct. 1063).

2. Burden of proof after commitment

Burden rests with party seeking commitment of accused to mental institution to prove that accused is then of unsound mind. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 307 U.S. 618, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

Once a man has been committed to a hospital after verdict of not guilty by reason in insanity, government need not thereafter be forced to prove his insanity as price of continuing treatment. *W. Overholser, Sup't etc.* v. *F. C. Lynch* (1961, 288 F. 2d 388, 109 U.S. App. D.C. 404; rev'd 1962, 82 S. Ct. 1063).

3. Certification of sanity

Mental hospital superintendent's return in habeas corpus proceeding by inmate, asserting generally that inmate had not recovered from "abnormal mental condition" and required further treatment, without explaining quoted phrase or describing past or future treatment, was insufficient on its face. *H. T. O'Beirne* v. *W. Overholser* (1961, 193 F. Supp. 652; rev'd 302 F. 2d 852).

One who had been found not guilty by reason of insanity and committed to mental hospital could not be detained in hospital beyond period of maximum sentence possible for the offense charged, because of "sociopathic personality" which was not sufficient basis for a civil adjudication of mental incompetency, even if such condition tended to make him an habitual petty criminal. *Id.*

Fact that a person is an habitual petty criminal could not subject him to permanent incarceration in criminal ward of mental institution, and such disposition may not be used as a substitute for laws dealing expressly with habitual criminals. *Id.*

4. Commitment procedure

Supreme Court granted certiorari, where important questions were raised as to procedure for confining criminally insane in District of Columbia and as to possible constitutional infirmities in statute under which commitment was made as applied to circumstances in case. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

7. Constitutionality

District of Columbia statute requiring mandatory confinement of persons found not guilty by reason of insanity is constitutional. *J. L. Foller* v. *W. Overholser, Sup't etc.* (1961, 292 F. 2d 732, 110 U.S. App. D.C. 239).

7.50. Construction

Statute to effect that person acquitted solely on ground that he was insane at time of commission of offense shall be ordered by court to be confined in hospital for mentally ill forecloses trial judge from exercising any discretion and does not require finding by trial judge, jury, or medical board as to accused's mental health on date of judgment of acquittal. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

Statute to effect that person acquitted solely on ground that he was insane at time of commission of offense shall be confined in hospital for mentally ill is applicable only to defendant who affirmatively relies upon defense of insanity in any way and such defense need not be asserted by formal plea, but statute does not apply to one who has maintained that he was mentally responsible when alleged offense was committed. *Id.*

Accused, who did not claim that he had been insane when offenses were committed and who presented no evidence to support an acquittal by reason of insanity, was not properly confined in hospital for mentally ill upon finding of trial judge that he was not guilty on ground that he was insane at time of commission of offenses. *Id.*

Statutory construction confining itself to bare words of statute is dangerous in that literalness may strangle meaning. *Id.*

Statute should be interpreted, if fairly possible, in such way as to free it from not insubstantial constitutional doubts. *Id.*

8.50. Defense of insanity

Defendant has burden of proving his defense of insanity. *United States* v. *J. A. Naples* (1961, 192 F. Supp. 23; rev'g 307 F. 2d 618).

10. Discretion of court

Record failed to establish that district court abused its discretion in denying application for conditional release, under statute governing release of one committed to mental institution after being found not guilty of crime by reason of insanity, based on certificate of superintendent of hospital in which applicant was confined. *M. W. Durnham* v. *United States* (1962, 308 F. 2d 332, — U.S. App. D.C. —).

Under statute requiring appropriate certificate of superintendent of mental hospital as a condition precedent to release of person committed, court may not substitute its own judgment for that of superintendent and may not try the matter de novo in habeas corpus proceeding, but superintendent's action or failure to act may not be deemed final or conclusive for all purposes. *H. T. O'Bierne* v. *W. Overholser* (1961, 193 F. Supp. 652; rev'd 302 F. 2d 852).

Court may step in to determine whether action or failure to act on part of superintendent of mental hospital is arbitrary and capricious. *Id.*

10.50. Due process

To require defendant to assume burden of proof on issue of insanity does not violate due process. *United States* v. *J. A. Naples* (1961, 192 F. Supp, 23; rev'd 283 F. 2d 618).

12.50. Findings

Absence of findings relating reason for denial of habeas corpus petitioned for by one committed to mental hospital to mental hospital following acquittal by reason of insanity required reviewing court to retain jurisdiction and remand to give District Court opportunity to amplify record to set forth such reasons. *J. A. Whittaker* v. *W. Overholser Sup't etc.* (1962, 299 F. 2d 447, 112 U.S. App. D.C. 66).

12.51. Grounds for commitment

Only those who need treatment and may be dangerous may be confined to hospital for mentally ill. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

13. Habeas corpus

Evidence disclosed that petitioner seeking habeas corpus was receiving psychiatric treatment during his confinement in hospital following acquittal by reason of insanity. *J. L. Foller* v. *Overholser, Sup't etc.* (1961, 292 F. 2d 732, 110 U.S. App. D.C. 239).

Evidence disclosed that director of hospital, to which petitioner had been committed following his acquittal by reason of insanity, was not arbitrary in refusing discharge. *Id.*

13.50. Hearing

If District Court were to find that habeas corpus petition filed by one committed to mental hospital following acquittal by reason of insanity, which, together with return, presented factual issue, was not procedurally premature, court was to grant hearing on question of eligibility for release under statute. *J. A. Whittaker* v. *Overholser, Sup't etc.* (1962, 299 F. 2d 447, 112 U.S. App. D.C. 66).

Habeas corpus petition filed by one who was confined to hospital following acquittal by reason of insanity, alleging that he was free from named mental conditions, of sound mind and not dangerous to himself or society, together with return, presented question of fact requiring resolution, assuming it was not raised in untimely fashion. *Id.*

13.51. Indeterminate commitment

That accused has pleaded guilty or that government has established that he committed criminal act constitutes only strong evidence that his continued liberty would imperil preservation of public peace and does not justify indeterminate commitment to mental institution on bare reasonable doubt as to past sanity. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

13.52. Inquiry after acquittal

After jury returns verdict of not guilty by reason of insanity, inquiry as to whether accused is presently commitable as person of unsound mind may be undertaken. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

Defendant does not have absolute right to have his guilty plea accepted and trial judge may enter plea of not guilty in behalf of accused, but, if that is done, and defendant, despite his own assertions of sanity, is found not guilty by reason of insanity, commitment to hospital for mentally ill must be either under statute providing procedure for confining accused who, though found competent to stand trial, is nevertheless commitable as person of unsound mind, or civil commitment provisions. *Id.*

16. Judicial determination

If accused denies that he is mentally ill, he is entitled to judicial determination of his mental state despite hospital board's certification that he is of unsound mind. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

20. Potentially dangerous

Mere fact that person committed under statute to mental institution following acquittal of criminal charge by reason of insanity has some dangerous propensity does not, standing alone, warrant his continued confinement but dangerous propensities must be related to or arise out of abnormal mental condition, whether such condition was that which constituted basis for acquittal. *W. Overholser* v. *H. T. O'Bierne* (1962, 302 F. 2d 852, 112 U.S. App. D.C. 267).

That one confined to mental institution because of his acquittal of criminal charges for insanity would no longer be committable under civil procedure could constitute no ground for his release where there was no showing that he had recovered to point where he was free from abnormal mental condition or that his release would not expose himself or public to danger in reasonably foreseeable future. *Id.*

Under rule that to be eligible for release from mental hospital, inmate must be free from such "abnormal mental conditions" as would make him dangerous to himself or community in reasonably foreseeable future, quoted words refer to a mental disease or mental defect, and not just any condition that is outside of the ordinary norm. *H. T. O'Bierne* v. *W. Overholser* (1961, 193 F. Supp. 652; rev'd, 302 F. 2d 852).

20.50. Prejudicial cross-examination

In murder prosecution wherein sole defense was insanity, and defendant's gibberish testimony was such as to raise issues as to whether defendant feigned such testimony and whether at time of the third trial his mental condition represented his condition at time of act charged, cross-examination disclosing defendant's failure to take stand at two previous trials which resulted in convictions was erroneous and was not harmless but was sufficiently prejudicial to warrant the granting of a mistrial even though defense made no request for cautionary instructions. *W. L. Stewart* v. *United States* (1961, 366 U.S. 1, 81 S. Ct. 941; rev'd, 275 F. 2d 617).

23.50. Psychiatrist's report

Psychiatrist's reports on whether defendant was mentally competent to stand trial properly included evaluation of defendant's mental condition at time crimes were committed. *W. Overholser, Sup't. etc.* v. *F. C. Lynch* (1961, 288 F. 2d 388, 109 U.S. App. D.C. 404; rev'd 1962, 82 S. Ct. 1063).

24. Public policy

That personal liberty should depend on such an arbitrary circumstance as mental hospital's change of "administrative policy" in determining whether sociopathic personality should be treated as a mental disease, as affecting release of committed person, would be contrary to basic principles of freedom. *H. T. O'Bierne* v. *W. Overholser* (1961, 193 F. Supp. 652; rev'd, 302 F. 2d 852).

28.50. Restored competency

Determination of accused's eligibility to stand trial may be established by a finding of "restored competency" or a finding that he never was incompetent, and hence assuming that a proceeding to set aside original adjudication of incompetency is required, substance of such proceeding was provided by hearing in which hospital psychiatrist testified that accused was not a mental

defective and that there was no indication of organic brain injury or mental illness. *V. E. Jenkins* v. *United States* (1962, 307 F. 2d 637, — U.S. App. D.C. —).

§ 24-302. Commitment of persons becoming insane while serving sentence.

NOTES TO DECISIONS

1. In general

If accused who pleads guilty is found to be in need of psychiatric assistance, he may be transferred to hospital for mentally ill following sentence. *F. C. Lynch* v. *W. Overholser, Sup't etc.* (1962, 369 U.S. 705, 82 S. Ct. 1063, rev'g 288 F. 2d 388).

Chapter 4.—PRISONS AND PRISONERS

SUBCHAPTER I.—PRISONS

§ 24-402. Sentence of prisoners to jail, reformatory, or penitentiary for more than one year—Jurisdiction of Commissioners over prisoners in reformatory—Transfer of prisoners from penitentiary to reformatory.

NOTES TO DECISIONS

4.50. Religious services

Allowing some religious groups to hold religious services at reformatory and jail at public expense while denying that right to another discriminated against prisoner of the other faith in violation of orders of Commissioners of District of Columbia requiring prison officials to make facilities available without regard to race or religion. *Wm. T. X. Fulwood* v. *Clemmer, Director, etc. and Anderson, Acting Sup't etc.* (1962, 206 F. Supp. 370).

Regulation and discipline of prisoners convicted of offenses against United States has been committed to prison authorities. *Id.*

§ 24-425. Place of imprisonment—Designation by Attorney General—Transfer.

NOTES TO DECISIONS

1. Transfer of prisoners

Habeas corpus proceeding by defendant, who alleged that he had been transferred from confinement in Virginia to jail in District of Columbia while petition for appeal in forma pauperis from denial of previous petition for habeas corpus was pending in Court of Appeals for Fourth Circuit in order to hamper such previous habeas corpus proceeding, did not present moot question, and defendant was entitled to hearing at least as to legality of his transfer in view of failure of District of Columbia to controvert defendant's allegations. *J. A. Bolden, Jr.* v. *D. C. Clemmer et al.* (1961, 298 F. 2d 306, 111 U.S. App. D.C. 392).

§ 24-442. Powers of Department over institutions—Rules and regulations.

NOTES TO DECISIONS

Discipline of prisoners 1
Review of administrators' actions 2

1. Discipline of prisoners

Allowing some religious groups to hold religious services at reformatory and jail at public expense while denying that right to another discriminated against prisoner of the other faith in violation of orders of Commissioners of District of Columbia requiring prison officials to make facilities available without regard to race or religion. *Wm. T. X. Fulwood* v. *Clemmer, Director etc. and Anderson Acting Sup't etc.* (1962, 206 F. Supp. 370).

Regulation and discipline of prisoners convicted of offenses against United States has been committed to prison authorities. *Id.*

2. Review of administrators' actions

Actions of prison authorities, including granting or withdrawal of claimed privileges of prisoners, are not reviewable by the court in "mandamus proceeding" in the absence of specific allegations particularly showing a clear breach of duty by prison administrators. *White and Childs* v. *D. L. Clemmer, Director, District of Columbia Department of Corrections et al.* (1961, 295 F. 2d 132, 111 U.S. App. D.C. 145).

Federal prisoners' pleadings seeking relief in nature of mandamus because of claimed deprivation of civil rights on account of their religion failed to allege with sufficient particularity a basis for redress by court where prison administration had been committed by statute to

PART V

GENERAL STATUTES

TITLE 25.—ALCOHOLIC BEVERAGES

Chapter 1.—ALCOHOLIC BEVERAGE CONTROL

§ 25–103. Definitions.

NOTES TO DECISIONS

5. Regulations, validity of

Under District of Columbia statute imposing a tax on all beer sold and prescribing monthly reports of beer "sold by him during the preceding calendar month", regulations of the Commissioners taxing beer in warehouse and before it is sold were not authorized. *American Sales Co.* v. *District of Columbia* (1961, 292 F. 2d 751, 110 U.S. App. D.C. 258).

§ 25–107. Powers of Commissioners—Rules and regulations—Licenses.

The Commissioners are hereby authorized to prescribe such rules and regulations not inconsistent with this chapter as they may deem necessary to carry out the purposes thereof and to control and regulate the manufacture, sale, keeping for sale, offer for sale, solicitation of orders for sale, importation, exportation, and transportation of alcoholic beverages in the District of Columbia for the protection of the public health, comfort, safety, and morals, and the Commissioners are further authorized to prescribe such rules and regulations not inconsistent with this chapter as they may deem necessary to properly and adequately control the consumption of alcoholic beverages on premises licensed under paragraph (1) of section 25–111, with specific authority to prescribe the hours during which alcoholic beverages may be consumed on such premises.

The Commissioners shall have specific authority to make rules and regulations for the issuance, transfer, and revocation of licenses; to facilitate and insure the collection of taxes; to govern the operation of the business of licensees, with full power and authority to prescribe the terms and conditions under which alcoholic beverages may be sold by each class of licensees; to forbid the issuance of licenses for manufacture, sale, or storage of alcoholic beverages in such localities in, and such sections and portions of, the District of Columbia as they may deem proper in the public interest; to limit the number of licenses of each class to be issued in the District of Columbia and to limit the number of licenses of each class in any locality in, or sections or portions of the District of Columbia as they may deem proper in the public interest; to forbid the issuance of licenses for businesses conducted on such premises as they, in the public interest, may deem inappropriate; to forbid the issuance of any class or classes of licenses for businesses established subsequent to January 24, 1934, near or around schools, colleges, universities, churches, or public institutions, to prescribe the hours during which beverages may be sold and to forbid the sale on Sundays; but the Commissioners shall not authorize the sale by any licensee, other than the holder of a retailer's license, class E, of any beverages on Sundays other than light wines and beer, and any such sale is hereby prohibited. Notwithstanding any other provision of this chapter, the Commissioners shall not authorize the sale by any licensee, other than the holder of a retailer's license, class E, of any beverages on the day of the presidential election in the District of Columbia during the hours when the polls are open, and any such sales are hereby prohibited.

The powers and authorities expressly enumerated are to be construed as in addition to, and not by way of limitation of, the general powers herein granted. Different regulations may be prescribed for the different classes of licenses, for the different classes of beverages, and for different localities in or sections or portions of the District of Columbia.

Any regulations promulgated hereunder shall become effective five days after being published in any daily newspaper of general circulation in the District of Columbia. Such regulations may be altered or amended from time to time as the Commissioners may deem desirable. The Commissioners shall also have authority in any time of public emergency, without previous notice of advertisement, to prohibit the sale of any or all beverages during the period of such emergency. (Jan. 24, 1934, 48 Stat. 322, ch. 4, § 7; June 29, 1953, 67 Stat. 102, ch. 159, § 404(a); Oct. 4, 1961, 75 Stat. 820, Pub. L. 87–389, § 3.)

AMENDMENTS

1961—Section 3, act Oct. 4, 1961, amended the second paragraph by inserting at the end of the first sentence the following new sentence: "Notwithstanding any other provision of this chapter, the Commissioners shall not authorize the sale by any licensee, other than the holder of a retailer's license, class E, of any beverages on the day of the presidential election in the District of Columbia during the hours when the polls are open, and any such sales are hereby prohibited."

1953—Act June 29, 1953, amended section by adding after the word "morals" in the first paragraph the provision authorizing the Commissioners to prescribe rules and regulations necessary to control consumption of alcoholic beverages on licensed premises.

CROSS REFERENCES

District of Columbia Revenue Act of 1956, authority of Commissioners to make rules and regulations under, see § 47–1595a.

Other provisions for rules and regulations under this chapter, see §§ 25–106, 25–112, 25–115, 25–138.

Penalties for violations of chapter or rules and regulations, see §§ 25–118, 25–132.

Rules and reglulations generally, see § 1–226.

NOTES TO DECISIONS

Double jeopardy 1
Regulations, validity of 2

1. Double jeopardy

Convictions for violations of this act and the Liquor Taxing Act of 1934, did not place defendant in double jeopardy, the evidence required in the two cases being different. *Sims* v. *Rives* (1936, 84 F. 2d 871, 66 App. D.C. 24, certiorari denied 56 S. Ct. 960, 298 U.S.. 682, 80 L. Ed. 1402).

2. Regulations, validity of

Under District of Columbia statute imposing a tax on all beer sold and prescribing monthly reports of beer "sold by him during the preceding calendar month", regulation of the Commissioners taxing beer in warehouse and before it is sold were not authorized. *American Sales Co.* v. *District of Columbia* (1961, 292 F. 2d 751, 110 U.S. App. D.C. 258).

§ 25–109. Sale without license prohibited—Exceptions.

NOTES TO DECISIONS

5.50. Evidence—sufficiency

Evidence sustained conviction for unlicensed keeping for sale and selling of alcoholic beverages. *R. L. Baer et ano.* v. *District of Columbia* (D.C. Mun. App. 1962, 182 A. 2d 839).

Evidence was sufficient to sustain convictions of keeping for sale and selling alcoholic beverages without a license. *G. Williams & S. Stokes* v. *District of Columbia* (D.C. Mun. App. 1961, 167 A. 2d 893).

§ 25–111. License classifications—Fees.

* * * * *

(g) *Retailer's license, class C.*—Such a license shall be issued only for a bona fide restaurant, hotel, or club, or a passenger-carrying marine vessel serving meals, or a club car or a dining car on a railroad. It shall authorize the holder thereof to keep for sale and to sell spirits, wine, and beer at the place therein described for consumption only in said place. Except in the case of clubs, hotels, and passenger-carrying marine vessels serving meals in interstate commerce of one hundred miles or more, no beverage shall be sold or served to a customer in any closed container. In the case of passenger-carrying marine vessels and club cars or dining cars on a railroad, said spirits and wine, except light wines, shall be sold or served only to persons seated at public tables, and beer and light wines shall be sold and served only to persons seated at public tables or at bona fide lunch counters, except that spirits, wine, and beer may be sold or served to assemblages of more than six individuals in a private room when such room has been previously approved by the Board. In the case of restaurants, said spirits, beer, and wine shall be sold or served only (1) to persons seated at public tables or at bona fide lunch counters, and (2) to persons in an enclosed or screened-off area in any such restaurant set aside for the accommodation of persons waiting to be seated at public tables. In the case of hotels, said beverages may be sold and served only in the private room of a registered guest or to persons seated at public tables or to assemblages of more than six individuals in a private room, when such room has been previously approved by the Board. Beer and light wines may also be sold and served to persons seated in bona fide lunch counters. And in the case of clubs, said beverages may be sold and served in the private room of a member or guest of a member, or to persons seated at tables. No license shall be issued to a club which has not been established for at least three months immediately prior to the making of the application for such license. All alcoholic beverages offered for sale or sold by the holder of such licenses may be displayed and dispensed in full sight of the purchaser.

The fee for such a license shall be for a restaurant, $825 per annum; for a hotel, under one hundred rooms, $825 per annum; for a hotel of one hundred or more rooms, $1,650 per annum; for a club, $425 per annum; for a marine vessel serving meals in interstate commerce of one hundred miles or more and for each railroad dining car or club car, $3 per month or $20 per annum: *Provided,* That such a license may be issued to any company engaged in interstate commerce covering all dining, club, and lounge cars operated by such company on railroads within the District of Columbia upon the payment of an annual fee of $100; for all other passenger-carrying marine vessels serving meals, $75 per month or $825 per annum.

* * * * *

(As amended May 31, 1962, 76 Stat. 89, Pub. L. 87–470, § 1.)

AMENDMENTS

1962—Act May 31, 1962, amended subsection (g) by striking out the words "restaurants and" in the fourth sentence and adding thereto the matter above set out in the fifth sentence.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 2 of act May 31, 1962, made clause (2) in the fifth sentence of subsection (g), effective "on the thirtieth day after the date of enactment."

§ 25–124. Beverage taxes—Method of collection—Class C or D licensees—Reports.

(a) There shall be levied, collected, and paid on all of the following-named beverages manufactured by a holder of a manufacturer's license and on all of the said beverages imported or brought into the District by a holder of a wholesaler's license, except beverages as may be sold to a dealer licensed under the laws of any State or Territory of the United States and not licensed under this chapter, and on all beverages imported or brought into the District by a holder of a retailer's license, a tax at the following rates to be paid by the licensee in the manner hereinafter provided: (1) a tax of 15 cents on every wine-gallon of wine containing 14 per centum or less of alcohol by volume, other than champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at a like rate on all fractional parts of such gallon; (2) a tax of 33 cents on every wine-gallon of wine containing more than 14 per centum of alcohol by volume, other than champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at a like rate on all fractional parts of such gallon; (3) a tax of 45 cents on every wine-gallon of champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at a like rate on all fractional parts of such gallon; (4) a tax of $1.50 on every wine-gallon of spirits and a proportionate tax at a like rate on all fractional parts of such gallon; (5) and a tax of $1.50 on every wine-gallon of alcohol and a proportionate tax at a like rate on all fractional parts of such gallon.

* * * * *

Former (c) repealed by act Sept. 14, 1961.

(c) [Former subsection (d) as amended:]

Said taxes shall be collected and paid in the following manner:

(1) Each holder of a manufacturer's or wholesaler's license shall, on or before the tenth day of each month, furnish to the Commissioners or their designated agent on a form to be prescribed by the Commissioners, a statement under oath showing the quantity of beverage subject to taxation hereunder sold by him during the preceding calendar month and shall, on or before the fifteenth day of each month, pay to the Commissioners or their designated agent the tax hereby imposed upon the quantity of beverages subject to taxation hereunder sold by him during the preceding calendar month.

(2) No licensee holding a retailer's license shall transport or cause to be transported into the District of Columbia any beverages subject to taxation hereunder other than the regular stock on hand in a passenger carrying marine vessel operating in and beyond the District of Columbia, or a club car or a dining car on a railroad operating in and beyond the District of Columbia, for which a retailer's license, class C or D, has been issued under this chapter, unless such licensee has first obtained a permit so to do from the Alcoholic Beverage Control Board. No such permit shall issue until the tax imposed by this section shall have been paid for the beverages for which the permit is requested. Such permit shall specifically set forth the quantity, character, and brand or trade name of the beverage to be transported and the names and addresses of the seller and of the purchaser. Such permit shall accompany such beverages during transportation in the District of Columbia to the licensed premises of such retail licensee and shall be exhibited upon the demand of any police officer or duly authorized inspector of the Board. Such permit shall, immediately upon receipt of the beverage by the retail licensee, be marked "canceled" and retained by him.

(3) The Commissioners are authorized and empowered to prescribe by regulation such other methods or devices or both for the assessment, evidencing of payment, and collection of the taxes imposed by this section in addition to or in lieu of the method hereinbefore set forth whenever in their judgment such action is necessary to prevent frauds or evasions.

(d) [Former subsection (g).]

(e) [Former subsection (h).] [Former subsection (e) repealed by act Sept. 14, 1961.]

(f) [Former subsection (k) as amended:] [Former subsection (f) repealed by act Sept. 14, 1961.]

No taxing provision of this section shall apply in the case of a passenger-carrying marine vessel operating in and beyond the District of Columbia, or a club car or a dining car on a railroad operating in and beyond the District of Columbia, for which a retailer's license, class C or D, has been issued under this chapter, except as set forth in this subsection.

The tax as specified in subsection (a) of this section shall be paid on all such beverages as are sold and served by said licensee while passing through or when at rest in the District of Columbia, in the following manner: A record shall be made and kept by the licensee for each passenger-carrying marine vessel operating in and beyond the District of Columbia, and for each club car or dining car on a railroad operating in and beyond the District of Columbia, for which a retailer's license, class C or class D, has been issued under this chapter, of all alcoholic beverages sold and served in the District of Columbia, which record shall be subject to inspection by the board. Each holder of such a license shall, on or before the tenth day of each month, forward to the Board on a form to be prescribed by the Commissioners, a statement under oath, showing the quantity of each kind of beverage, except beer and wines, sold under such license in the District of Columbia during the preceding calendar month and such statement shall be accompanied by payment of any tax imposed under this chapter upon any such beverages set forth in said report.

(g) The Commissioners are authorized to require that the immediate container of each beverage subject to tax under this chapter contain the license number of each licensee who sells or offers for sale such beverage. Such license number must be affixed at the time of display or sale of said spirits by the retailer. This subsection shall not apply to spirit containers of less than two ounces.

[Former subsections (g) and (h) renumbered as (d) and (e); (i) and (j) repealed by act Sept. 14, 1961, and former (k) renumbered as (f) by same act.]

(Jan. 24, 1934, 48 Stat. 332, ch. 4, § 23; Apr. 30, 1934, 48 Stat. 654, ch. 181, § 3; June 18, 1934, 48 Stat. 1014, 1015, ch. 600, §§ 1, 2; Aug. 27, 1935, 49 Stat. 901, 903, ch. 756, §§ 11, 17; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; May 27, 1949, 63 Stat. 135, ch. 146, title V, § 505; May 18, 1954, 68 Stat. 113, ch. 218, § 801; Mar. 31, 1956, 70 Stat. 81, 82, ch. 154, §§ 301, 302(a); July 25, 1958, 72 Stat. 418, 419, Pub. L. 85–558, §§ 1—7; Sept. 14, 1961, 75 Stat. 510, 511, Pub. L. 87–238, §§ 1—5; Mar. 2, 1962, 76 Stat. 17, Pub. L. 87–408, § 401.)

AMENDMENTS

1962—Section 401 act Mar. 2, 1962, amended clauses (4) and (5) of subsection (a) by increasing the tax from $1.25 to $1.50.

1961—Subsection (c) repealed by act Sept. 14, 1961, § 1. See main volume for provisions of subsection.

Subsection (d) renumbered as (c) by section 2 of same act, and amended to read as above set out. For provisions of former subsection (d) see main volume.

Subsections (e), (f), (i), and (j) were repealed and subsections (g) and (h) were renumbered as (d) and (e) by section 3 of the same act. For the provisions of the repealed subsections, see main volume.

Subsection (k) was renumbered as (f) and amended to read as above set out, by section 4 of the same act. See original subsection (k) in main volume.

Subsection (g) was added by section 5 of the act. Sections 6, 7, 8, and 9 of the act made enactments which are set out as notes hereunder.

EFFECTIVE DATE OF 1962 AMENDMENTS

Section 402, act Mar. 2, 1962, provided that the amendments made by section 401 "shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act." [Mar. 2, 1962]

EFFECTIVE DATE OF 1961 AMENDMENT

Section 9 of act Sept. 14, 1961, provided that: "This Act [making amendments, repeals, and changes set out under 1961 Amendment note] shall take effect on the first day of the calendar month beginning not less than sixty days after the date of approval of this Act [Sept. 14, 1961]."

CONSTRUCTION OF ACT SEPT. 14, 1961, AND DECLARATION OF AUTHORITY

Section 6 of act Sept. 14, 1961, provided that:

"Nothing in this Act [repealing subsection (c) renumbering subsection (d) as subsection (c) and amending same to read as above set out; repealing subsections (e), (f), (i), and (j); renumbering (g) and (h) as (d) and (e) and renumbering (k) as (f) and amending same to read as above set out and adding subsection (g)] shall be construed as requiring the payment of any further tax on beverages to which stamps have been lawfully affixed under provisions of prior law."

Section 8 of said act provided that:

"Nothing in this Act [making the repeals, amendments and renumberings above set out] shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this Act in the Board of Commissioners or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan."

REDEMPTION OF UNUSED STAMPS

Section 7 of act Sept. 14, 1961, provided that:

"The Commissioners or their designated agent are authorized to redeem any unused stamps issued under the provisions of prior law or to accept same in payment of tax shown due on a monthly return."

NOTES TO DECISIONS

1. Affixation of tax stamps

Alcoholic spirits remaining on retail liquor dealer's premises for more than 24 hours without having District of Columbia tax stamps affixed were properly condemned and forfeited, even though dealer had the necessary stamps on his premises. *Apex Liquors Inc.* v. *District of Columbia* (1962, 303 F. 2d 206, 112 U.S. App. D.C. 346).

§ 25–128. Drinking of alcoholic beverage in street, alley, park, parking, or unlicensed public place forbidden—Intoxication in street, alley, park, or parking forbidden—Penalty.

NOTES TO DECISIONS

2. Evidence

Evidence sustained convictions for disorderly conduct and drinking in public. *J. M. Heard* v. *District of Columbia* (D.C. Mun App. 1962, 179 A. 2d 723).

§ 25–129. Search warrants for illegal alcoholic beverages—Penalty for resisting officer—Disposition of illegal beverages—Payment of bona fide liens.

NOTES TO DECISIONS

.50. Applications for search warrant

A lapse of four days between time police officers observed illegal activities on premises and time police department made application for search warrant based on policeman's affidavit describing sale of alcoholic beverages on premises without a license was not, under the circumstances, unreasonable as a matter of law. *G. Williams & S. Stokes* v. *District of Columbia* (D.C. Mun. App. 1961, 167 A. 2d 893).

§ 25–138. Tax on beer.

NOTES TO DECISIONS

1. Regulations, validity of

Under District of Columbia statute imposing a tax on all beer sold and prescribing monthly reports of beer "sold by him during the preceding calendar month", regulation of the Commissioners taxing beer in warehouse and before it is sold were not authorized. *American Sales Co.* v. *District of Columbia* (1961, 292 F. 2d 751, 110 U.S. App. D.C. 258).

TITLE 27.—CEMETERIES AND CREMATORIES

Chapter 1.—CEMETERY ASSOCIATIONS—REGULATORY PROVISIONS

§ 27–119a. Disposal of dead bodies—Permits required—Movement and disposition of tissue by tissue banks—Violations.

It shall be unlawful to inter, disinter, or otherwise dispose of the dead body, or any part thereof, of any human being, except upon a permit, duly issued by the Director of Public Health of the District of Columbia, or such other person or persons as the Commissioners of the District of Columbia shall designate, or to remove from place to place, or transport, the dead body, or any part thereof, of a human being, except, upon such terms and conditions as the Commissioners may specify. Notwithstanding the provisions of the preceding sentence, the Commissioners may, in their discretion, by regulation authorize (a) tissue banks operating pursuant to the District of Columbia Tissue Bank Act or (b) other persons subject to regulations made pursuant to such Act, or both, to remove, transport, and dispose of tissue taken from such dead body without such permit. Any violation hereof shall be subject to the penalties contained in section 27–126. (Mar. 3, 1901, 31 Stat. 1296, ch. 854, §§ 675, 676, as added Sept. 22, 1950, 64 Stat. 904, ch. 985, § 1; Sept. 10, 1962, 76 Stat. 536, Pub. L. 87–656, § 10.)

REFERENCE IN TEXT

District of Columbia Tissue Bank Act is set out as chapter 2A of title 2 and as amendments to this section and section 27–125.

AMENDMENT

1962—Section 10 of act Sept. 10, 1962, amended this section by striking, in the first sentence the words, "remove, transport" and by inserting immediately after "designate" the words, "or to remove from place to place, or transport, the dead body, or any part thereof, of a human being, except" and by the addition of the second sentence as above set out beginning with the word "Notwithstanding" and ending with the word "permit".

EFFECTIVE DATE OF 1962 AMENDMENT

See note section 2–251.

CROSS REFERENCE

See other penalty provisions, section 2–254.

§ 27–125. Permit to cremate—Embalming—Removal of tissue immediately after death.

It shall be unlawful for any person or persons to cremate or otherwise to destroy the dead body, or part of the dead body, of any human being in said District before the issue of the burial permit by the director of public health of said District, and then only when said permit is countersigned by the coroner of said District, authorizing such cremation or destruction. It shall be unlawful for any person or persons to embalm, inject, or by any similar method preserve the dead body, or part of the dead body, of any human being in said District within four hours after death or before the issue of the death certificate; and in case the death is believed to be due to other than natural causes, or the cause thereof is unknown, such embalming, injecting, or preserving shall at no time be done unless such death certificate has been signed or approved by the coroner of said District. Notwithstanding the provisions of this section, whenever any person is pronounced dead by a physician duly licensed or duly registered under the Healing Arts Practice Act of the District of Columbia, tissue donated in accordance with the provisions of the District of Columbia Tissue Bank Act may be removed by or under the supervision of a person licensed under the authority of section 2–253 for preservation in a tissue bank operating pursuant to such Act, without regard for any time limitation, or for any permit or certificate requirement, established by this section: *Provided,* That with respect to a dead human body in the custody of the Coroner or under his jurisdiction, no tissue shall be removed therefrom for preservation except with the specific approval of the Coroner in each case. (Mar. 3, 1901, 31 Stat. 1298, ch. 854, § 683; Aug. 1, 1950, 64 Stat. 393, ch. 153, § 1; Sept. 10, 1962, 76 Stat. 537, Pub. L. 87–656, § 11.)

REFERENCE IN TEXT

The Healing Arts Practice Act of the District of Columbia is set out in Title 2, chapter 1, of the D.C. Code and the District of Columbia Tissue Bank Act is set out in this section, section 27–119a, and in Title 2, chapter 2A, of the D.C. Code.

AMENDMENT

1962—Section 11 of act Sept. 10, 1962, amended section by the addition of the matter above set out and beginning with the word "Notwithstanding" and ending with the word "case."

EFFECTIVE DATE OF 1962 AMENDMENT

See note to section 2–251.

CROSS REFERENCE

For other provisions of the Tissue Bank Act, see title 2, ch. 2A and sec. 27–119a.

§ 27–126. Penalty.

CROSS REFERENCE

For other penalty provisions, see section 2–254.

90003 O—63——9

TITLE 28.—COMMERCIAL INSTRUMENTS AND TRANSACTIONS

Chapter 1.—NEGOTIABLE INSTRUMENTS—FORM AND INTERPRETATION

§ 28–124. Signature forged or without authority.

NOTES TO DECISIONS

7. Liability of bank

In customer's action against bank predicated upon cashing checks payable to him upon basis of forgeries of his signature affixed thereto by his employee who conducted his banking business, instructions stating that if customer's negligence contributed proximately to cashing of checks in question, bank was entitled to verdict and that customer was required to use ordinary diligence in ascertaining condition of his own operation were erroneous in almost directing verdict for bank. *Dr. S. L. Joffe* v. *Riggs National Bank* (D.C. Mun. App. 1962, 179 A. 2d 390).

Law holds banks to strict accountability and customer is not precluded from recovering simply because he has been lax in conduct of his business affairs. *Id.*

Mere negligence of customer in conduct of his business affairs would not preclude recovery from bank for paying proceeds of checks to his employee who forged his name thereon, but to preclude recovery it was necessary for bank to show that customer's negligence directly and proximately affected conduct of bank in cashing checks bearing forged endorsements. *Id.*

Chapter 3.—NEGOTIATION

§ 28–301. Definition—Bearer instrument—Order instrument.

NOTES TO DECISIONS

1.50. Holder in due course

Corporation was a holder in due course of note secured by trust deed notwithstanding corporation agreed to purchase note and sent its check therefor to title company prior to execution of note, where actual purchase did not occur until note had been executed by defendants and endorsed by payee, and hence defenses of fraudulent representations as to condition of house for which trust deed was executed were not available. *A. M. Latney & J. L. Latney* v. *S. Oshinsky* (D.C. Mun. App. 1961, 169 A. 2d 687).

Chapter 4.—RIGHTS OF HOLDER

§ 28–402. "Holder in due course" defined.

NOTES TO DECISIONS

8.50. Holder in due course

Corporation was a holder in due course of note secured by trust deed notwithstanding corporation agreed to purchase note and sent its check therefor to title company prior to execution of note, where actual purchase did not occur until note had been executed by defendants and endorsed by payee, and hence defenses of fraudulent representations as to condition of house for which trust deed was executed were not available. *A. M. Latney & J. L. Latney* v. *S. Oshinsky* (D.C. Mun. App. 1961, 169 A. 2d 687).

Chapter 11.—UNIFORM SALES—FORMATION OF CONTRACT

§ 28–1115. Implied warranties of quality or fitness—Effect of express warranty.

NOTES TO DECISIONS

3.50. Conflict of express and implied warranties

An express warranty giving a discount on replacement and installation of parts in a used automobile would not of itself be deemed to conflict with implied warranty of fitness of automobile. *A. Green* v. *Northeast Motor Company* (D.C. Mun. App. 1961, 166 A. 2d 923).

Provision that buyer understood there were no warranties except as provided in contract for sale of automobile did not preclude evidence of implied warranty of fitness. *Id.*

TITLE 29.—CORPORATIONS

Chapter 8.—COOPERATIVE ASSOCIATIONS

§ 29–818. Directors.

NOTES TO DECISIONS

1. Validity of by-laws

Incorporated cooperative association's by-law providing that board of directors' selection of counsel shall be subject to approval of membership violated statute, and such by-law did not preclude counsel from recovering for services rendered under contract approved by the board. *Capitol Cab Cooperative Ass'n Inc.* v. *W. C. Darden* (D.C. Mun. App. 1961, 169 A. 2d 463; see also, same case, 154 A. 2d 352).

§ 29–821. Referendum on acts of directors.

NOTES TO DECISIONS

1. Validity of by-laws

Incorporated cooperative association's by-law providing that board of directors' selection of counsel shall be subject to approval of membership violated statute, and such by-law did not preclude counsel from recovering for services rendered under contract approved by board. *Capitol Cab Cooperative Ass'n Inc.* v. *W. C. Darden* (D.C. Mun. App. 1961, 169 A. 2d 463; see also, same case, 154 A. 2d 352).

Chapter 9.—BUSINESS CORPORATIONS (1954)

§ 29–902. Definitions.

NOTES TO DECISIONS

1. Insolvency

In action by judgment creditor of corporation to impress a constructive trust on property conveyed by corporation to defendant officer and majority shareholder, evidence supported finding of financial incapacity of the corporation at the time of the conveyance. *L. N. Tauber* v. *M. Noble* (D.C. Mun. App. 1961, 172 A. 2d 552).

§ 29–929. Sale, lease, exchange, or mortgage of assets other than in usual and regular course of business.

NOTES TO DECISIONS

1. Assets, disposition of

Corporation's transfer of its major league baseball franchise from one location to another was not such disposition of assets as required approval of two-thirds of stockholders, under District of Columbia Law. *H. G. Murphy* v. *Washington American Baseball Club, Inc., et al.* (1961, 293 F. 2d 522, 110 U.S. App. D.C. 334).

§ 29–933i. Service of process on foreign corporation.

NOTES TO DECISIONS

1. Service on Commissioners

Service was quashed and complaint dismissed in treble damage action against foreign corporation under Clayton Act where plaintiff failed to establish that it had complied with statutory requirement of delivering to and leaving with the Commissioners of District of Columbia, or with any clerk having charge of their office, copies of process. *Curtis Brothers, Inc.* v. *Thomasville Chair Co.* (1961, 292 F. 2d 774, 110 U.S. App. D.C. 281).

§ 29–935. Commissioners—Duties and functions.

DELEGATION OF FUNCTIONS

Org. Ord. No. 101, 54–1980, dated Sept. 1954, and amended Oct. 14, 1954, Nov. 30, 1954, June 10, 1955, Feb. 19, 1960, and May 29, 1962, of the Board of Commissioners of the District of Columbia provided:

* * * * *

PART III

All functions relating or pertaining to any business or nonprofit corporation which were transferred from the Recorder of Deeds to the Commissioners by Section 143 of the D.C. Business Corporation Act [§ 29–953 of the D.C. Code] are re-transferred to the Recorder of Deeds, including the authority to redelegate such functions as provided for in Part I herein.

Chapter 10.—NONPROFIT CORPORATIONS

§ 29–1001. Popular name.

This chapter shall be known and may be cited as the "District of Columbia Nonprofit Corporation Act." (Aug. 6, 1962, 76 Stat. 265, Pub. L. 87–569, § 1.)

EFFECTIVE DATE

Section 110 act Aug. 6, 1962 (classified to § 29–1099k), provides as follows: "This Act [this chapter] shall take effect one hundred and eighty days after the date of its approval". [Aug. 6, 1962]

§ 29–1002. Definitions.

As used in this chapter, unless the context otherwise requires, the term—

(a) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(b) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of the District of Columbia, for a purpose or purposes for which a corporation might be organized under this chapter, but shall not include a corporation created by a special Act of Congress.

(c) "Not for profit corporation" means a corporation no part of the income of which is distributable to its members, directors, or officers; except nothing in this chapter shall be construed as prohibiting the payment of reasonable compensation for services rendered and the making of distribution upon dissolution of final liquidation as permitted in this chapter.

(d) "Articles of incorporation" means the original articles of incorporation and all amendments thereto, including articles of merger or consolidation, and in the case of a corporation created by a special Act of Congress, means such special Act and any amendments thereto made by special Act of Congress, or pursuant to general law.

(e) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of a corporation irrespective of the name or names by which such rules are designated.

(f) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

(g) "Board of directors" means the group of persons vested with the management of the affairs of a corporation irrespective of the name by which such group is designated.

(h) "Insolvent" means that a corporation is unable to pay its debts as they become due in the usual course of its affairs.

(i) "Commissioners" means the Commissioners of the District of Columbia or the agent or agents designated by them to perform any function vested in the Commissioners by this chapter.

(j) "District" means the District of Columbia.

(k) "The court", except where otherwise specified, means the United States District Court for the District of Columbia. (Aug. 6, 1962, 76 Stat. 266, Pub. L. 87–569, § 2.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1003. Applicability.

(a) The provisions of this chapter relating to domestic corporations shall apply to all corporations

organized hereunder or which elect to accept the provisions of this chapter.

(b) The provisions of this chapter relating to foreign corporations shall apply to all foreign not for profit corporations conducting affairs in the District of Columbia for a purpose or purposes for which a corporation might be organized under this chapter.

(c) No corporation eligible to be formed under this chapter shall be incorporated under any other Act or statute now in force in the District of Columbia except that those organizations eligible to be formed under the Acts or parts of Acts referred to in section 49–303, may be formed under those Acts or part of Acts. (Aug. 6, 1962, 76 Stat. 267, Pub. L. 85–569, § 3.)

EFFECTIVE DATE

See section 29–1099k.

CROSS REFERENCE

See also chapters 3, 4, 5, 6 and 8 of title 29, chapter 9 of title 31, and title 32.

§ 29–1004. Purposes.

Corporations may be organized under this chapter for any lawful purpose or purposes including, but not limited to, one or more of the following or similar purposes: benevolent; charitable; religious; missionary; educational; scientific; research; literary; musical; social; athletic; patriotic; political; civic; professional, commercial, industrial, business, or trade association; mutual improvement; promotion of the arts; except that cooperative organizations or organizations subject to any of the provisions of the insurance laws of the District may not be organized under this chapter. (Aug. 6, 1962, 76 Stat. 267, Pub. L. 87–569, § 4.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1005. General powers.

Each corporation shall have power—

(a) to have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation;

(b) to sue and be sued, complain and defend, in its corporate name;

(c) to have a corporate seal which may be altered at pleasure and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(d) to purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use, and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

(e) to sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(f) to lend money to and otherwise assist its employees other than its officers and directors;

(g) to purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States, or of any other government, State, territory, governmental district, or municipality or of any instrumentality thereof;

(h) to make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income;

(i) to lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(j) to conduct its affairs, carry on its operations, hold property, and have offices and exercise the powers granted by this chapter in any part of the world;

(k) to elect or appoint officers and agents of the corporation, and define their duties and fix their compensation;

(*l*) to make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of the District of Columbia, for the administration and regulation of the affairs of the corporation;

(m) unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for religious, charitable, scientific research, or educational purposes, or for other purposes for which the corporation is organized;

(n) to indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation, whether for profit or not for profit, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit, or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit, or proceeding to be liable for negligence or misconduct in the performance of a duty. Such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any bylaw, agreement, vote of board of directors or members, or otherwise;

(o) to cease its corporate activities and surrender its corporate franchise;

(p) to have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

(Aug. 6, 1962, 76 Stat. 267, Pub. L. 87–569, § 5.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1006. Defense of ultra vires.

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(a) In a proceeding by a member or a director against the corporation to enjoin the doing of any act, or the transfer of real or personal property by or to the corporation. If the act or transfer sought to be enjoined is being, or is to be, performed pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(b) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the incumbent or former officers or trustees of the corporation.

(c) In a proceeding by the Commissioners, as provided in this chapter, to dissolve the corporation, or in a proceeding by the Commissioners to enjoin the corporation from the transaction of unauthorized acts. (Aug. 6, 1962, 76 Stat. 269, Pub. L. 87–569, § 6.)

Effective Date

See section 29–1099k.

§ 29–1007. Corporate name.

The corporate name—

(a) shall not contain any word or phase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation;

(b) shall not be the same as, or deceptively similar to, the name of any domestic corporation, whether for profit or not for profit organized under any Act of Congress authorizing the formation of corporations under the laws of the District of Columbia, or that of any corporation created pursuant to any special Act of Congress to transact business or conduct affairs in the District, or that of any foreign corporation whether for profit or not for profit authorized to transact business or conduct affairs in the District, or a name the exclusive right to which is at the time reserved in the manner provided in this chapter or in accordance with the provisions of the District of Columbia Business Corporation Act;

(c) shall be transliterated into letters of the English alphabet, if it is not in English;

(d) shall not indicate, nor shall any statement be made, that the corporation is organized under an Act of Congress.

(Aug. 6, 1962, 76 Stat. 269, Pub. L. 87–569, § 7.)

Reference in Text

The District of Columbia Business Corporation Act, referred to in text, is set out in chapter 9 of title 29, D.C. Code.

Effective Date

See section 29–1099k.

§ 29–1008. Reserved name.

(a) The exclusive right to the use of a corporate name may be reserved by any person or corporation, domestic or foreign, by delivering to the Commissioners an application to reserve a specified corporate name, executed by the applicant. If the Commissioners find that the name is available for corporate use, they shall reserve the same for the exclusive use of the applicant for a period of sixty days. Such reservation may be renewed for an additional period of sixty days and for good cause shown such reservation may be further extended for a reasonable period.

(b) The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by delivering to the Commissioners a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee. (Aug. 6, 1962, 76 Stat. 269, Pub. L. 87–569, § 8.)

Effective Date

See section 29–1099k.

§ 29–1009. Registered office and registered agent.

Each corporation shall have and continuously maintain in the District of Columbia—

(a) a registered office, which may be, but need not be, the same as its principle office;

(b) a registered agent, which agent may be either an individual resident of the District of Columbia whose business office is identical with such registered office, a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in the District of Columbia and having an office identical with such registered office.

(Aug. 6, 1962, 76 Stat. 270, Pub. L. 87–569, § 9.)

Effective Date

See section 29–1099k.

§ 29–1010. Change of registered office or registered agent.

(a) The registered office of a corporation or its registered agent, or both, may be changed by delivering to the Commissioners a statement setting forth—

(1) the name of the corporation;

(2) the address, including street and number, if any, of its then registered office;

(3) if the address of its registered office is to be changed, the address, including street and number, if any, to which the registered office is to be changed;

(4) the name of its then registered agent;

(5) if its registered agent is to be changed, the name of its successor registered agent;

(6) that the address of its registered office and the address of the office of its registered agent as changed will be identical; and

(7) that such change was authorized by resolution duly adopted by its board of directors or was authorized by an officer of the corporation duly empowered to make such change.

(b) Such statement shall be executed in duplicate by the corporation by its president or a vice president, and the corporate seal shall be thereto affixed, attested by the secretary or an assistant secretary, and delivered to the Commissioners. If

the Commissioners find that such statement conforms to law, they shall, when all fees and charges have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;

(2) file one of such duplicate originals in their office;

(3) return the other duplicate original to the corporation or its representative.

(c) The change of address of the registered office, or the change of registered agent, or both, as the case may be, shall become effective upon the filing of such statement by the Commissioners.

(d) A corporation shall change its registered agent if the office of registered agent shall become vacant for any reason, or if its registered agent becomes disqualified or incapacitated, or if it revokes the appointment of its registered agent.

(e) Any registered agent of a corporation may resign as such agent by delivering written notice thereof, executed in triplicate, to the Commissioners, who shall file one copy thereof in their office and forthwith mail a copy thereof to the corporation at its registered office and another copy to the corporation at its principal office in the District of Columbia as shown by the records of the Commissioners. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the Commissioners or upon the appointment of a successor agent becoming effective, whichever occurs sooner. No fee or other charge of any kind shall be imposed with respect to a filing under this subsection. (Aug. 6, 1962, 76 Stat. 270, Pub. L. 87–569, § 10.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1011. Registered agent as an agent for service.

(a) The registered agent appointed by a corporation as provided in this chapter shall be an agent of such corporation upon whom any process, notice, or demand required or permitted by law to be served upon the corporation may be served. Service of any process, notice, or demand upon a corporate agent, as such agent, may be had by delivering a copy of such process, notice, or demand to the president, vice president, the secretary, or an assistant secretary of such corporate agent.

(b) Whenever a corporation shall fail to appoint or maintain a registered agent in the District or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the Commissioners shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the Commissioners of any such process, notice, or demand shall be made by delivering to and leaving with them or with any clerk having charge of their office duplicate copies of such process, notice, or demand. In the event that any such process, notice, or demand is served on the Commissioners, they shall immediately cause one of such copies thereof to be forwarded by registered or certified mail, addressed to the corporation at its registered office.

(c) The Commissioners shall keep a record of all processes, notices, and demands served upon them under this section, and shall record therein the time of such service and their action with respect thereto.

(d) Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. (Aug. 6, 1962, 76 Stat. 271, Pub. L. 87–569, § 11.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1012. Members.

A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or the bylaws. If the corporation has no members, that fact shall be set forth in the articles of incorporation. A corporation may issue certificates evidencing membership therein. (Aug. 6, 1962, 76 Stat. 271, Pub. L. 87–569, § 12.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1013. Bylaws.

The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend, or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. (Aug. 6, 1962, 76 Stat. 271, Pub. L. 87–569, § 13.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1014. Meetings of members.

(a) Meetings of members may be held at such place within or without the District of Columbia as may be provided in the bylaws or, where not inconsistent with the bylaws, in the notice of the meeting.

(b) An annual meeting of the members shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

(c) Special meetings of the members may be called by the president, the secretary, the board of directors, or by such other officers or persons or number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having at least one-twentieth of the votes entitled to be cast at such meeting. (Aug. 6, 1962, 76 Stat. 272, Pub. L. 87–569, § 14.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1015. Notice of members' meetings.

Written or printed notice stating the place, day, and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the

meeting is called, shall, in the absence of a provision in the bylaws specifying a different period of notice, be delivered not less than ten or more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid. (Aug. 6, 1962, 76 Stat. 272, Pub. L. 87–569, § 15.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1016. Voting.

(a) Members shall not be entitled to vote except as the right to vote shall be conferred by the articles of incorporation.

(b) A member may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member or his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Where the articles of incorporation or the bylaws so provide, voting on all matters, including the election of directors or officers where they are to be elected by the members, may be conducted by mail.

(c) The articles of incorporation or the bylaws may provide that in all elections for directors every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected or by distributing such votes on the same principle among any number of such candidates.

(d) If a corporation has no members or if the members have no right to vote, the directors shall have the sole voting power and shall have all of the authority and may take any action herein permitted members. (Aug. 6, 1962, 76 Stat. 272, Pub. L. 87–569, § 16.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1017. Quorum.

(a) The bylaws may provide the number or percentage of members entitled to vote represented in person or by proxy, or the number or percentage of votes represented in person or by proxy, which shall constitute a quorum at a meeting of members. In the absence of any such provision, members having at least one-tenth of the votes entitled to be cast represented in person or by proxy shall constitute a quorum. The affirmative vote of a majority of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by this chapter, the articles of incorporation or the bylaws.

(b) Unless otherwise provided by the articles of incorporation or the bylaws, the members present at a duly organized meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

(c) If a meeting cannot be organized because a quorum has not attended, those present may adjourn the meeting from time to time until a quorum is present, when any business may be transacted that may have been transacted at the meeting as originally called. (Aug. 6, 1962, 76 Stat. 272, Pub. L. 87–569, § 17.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1018. Board of directors.

The affairs of a corporation shall be managed by a board of directors. Directors need not be residents of the District of Columbia or members of the corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors. (Aug. 6, 1962, 76 Stat. 273, Pub. L. 87–569, § 18.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1019. Number, election, classification, and removal of directors.

(a) The number of directors of a corporation shall be not less than three. Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number of the first board of directors which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

(b) The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

(c) Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified, except in the case of ex officio directors.

(d) A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation or the bylaws, and if none be provided may be removed at a meeting called expressly for that purpose, with or without cause, by such vote as would suffice for his election. (Aug. 6, 1962, 76 Stat. 273, Pub. L. 87–569, § 19.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1020. Vacancies.

Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the then members of the board of directors, though less than a quorum of the board, unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office. (Aug. 6, 1962, 76 Stat. 274, Pub. L. 87–569, § 20.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1021. Quorum of directors.

A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws; but in no event shall a quorum consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this chapter or by the articles of incorporation or the bylaws. (Aug. 6, 1962, 76 Stat. 274, Pub. L. 87–569, § 21.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1022. Committees.

If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees, each of which shall consist of two or more directors, which committees, to the extent provided in said resolution, in the articles of incorporation or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation. Other committees not having and exercising the authority of the board of directors in the management of the corporation may be designated and appointed by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director, of any responsibility imposed upon it or him by law. (Aug. 6, 1962, 76 Stat. 274, Pub. L. 87–569, § 22.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1023. Place and notice of directors' meetings.

Meetings of the board of directors, regular or special, may be held at such place within or without the District of Columbia, and upon such notice as may be prescribed in the bylaws or, where not inconsistent with the bylaws, by resolution of the board of directors. A director's attendance at any meeting shall constitute waiver of notice of such meeting, excepting such attendance at a meeting by the director for the purpose of objecting to the transaction of business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting, unless otherwise provided in the articles of incorporation or the bylaws. (Aug. 6, 1962, 76 Stat. 274, Pub. L. 87–569, § 23.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1024. Officers.

(a) The officers of a corporation shall consist of a president, a secretary, and a treasurer, and may include one or more vice presidents and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.

(b) The articles of incorporation or the bylaws may provide that any one or more officers of the corporation or other organizations shall be ex officio members of the board of directors.

(c) The officers of a corporation may be designated by such other titles as may be provided in the articles of incorporation or the bylaws.

(d) All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the property and affairs of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws. (Aug. 6, 1962, 76 Stat. 275, Pub. L. 87–569, § 24.)

§ 29–1025. Removal of officers.

Any officer or agent elected or appointed may be removed by the persons authorized to elect or appoint such officer or agent whenever in their judgment the best interest of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not itself create contract rights. (Aug. 6, 1962, 76 Stat. 275, Pub. L. 87–569, § 25.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1026. Books and records.

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any of the authority of the board of directors; and shall keep

at its registered office or principal office in the District of Columbia a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member having voting rights, or his agent or attorney, for any proper purpose at any reasonable time. (Aug. 6, 1962, 76 Stat. 275, Pub. L. 87–569, § 26.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1027. Shares of stock and dividends prohibited.

A corporation shall not authorize or issue shares of stock. No dividend shall be paid and no part of the income of a corporation shall be distributed to its members, directors, or officers. A corporation may pay compensation, including pensions, in a reasonable amount to its members, directors, or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members or others as permitted by this chapter. (Aug. 6, 1962, 76 Stat. 275, Pub. L. 87–569, § 27.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1028. Loans to directors and officers prohibited.

No loans shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of such a loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof. (Aug. 6, 1962, 76 Stat. 275, Pub. L. 87–569, § 28.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1029. Incorporators.

Three or more natural persons of the age of twenty-one years or more may act as incorporators of a corporation by signing, vertifying, and delivering in duplicate to the Commissioners articles of incorporation for such corporation. (Aug. 6, 1962, 76 Stat. 276, Pub. L. 87–569, § 29.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1030. Articles of incorporation.

(a) The articles of incorporation shall set forth—

(1) the name of the corporation;

(2) the period of duration, which may be perpetual;

(3) the purpose or purposes for which the corporation is organized;

(4) if the corporation is to have no members, a statement to that effect;

(5) if the corporation is to have one or more classes of members, any provision which the incorporators elect to set forth in the articles of incorporation designating the class or classes of members, stating the qualifications and rights of the members of each class and conferring, limiting, or denying the right to vote;

(6) if the directors or any of them are not to be elected or appointed by one or more classes of members, a statement of the manner in which such directors shall be elected or appointed; or that the manner of such election or appointment of such directors shall be provided in the bylaws;

(7) any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets on dissolution or final liquidation and any provision which under this chapter is required or permitted to be set forth in the bylaws;

(8) the address, including street and number, if any, of its initial registered office, and the name of its initial registered agent at such address;

(9) the number of directors constituting the initial board of directors, and the names and addresses, including street and number, if any, of the persons who are to serve as the initial directors until the first annual meeting or until their successors be elected and qualify;

(10) the name and address, including street and number, if any, of each incorporator.

(b) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

(c) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. Whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling. (Aug. 6, 1962, 76 Stat. 276, Pub. L. 87–569, § 30.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1031. Filing of articles of incorporation.

(a) Duplicate originals of the articles of incorporation shall be delivered to the Commissioners.

(b) If the Commissioners find that the articles of incorporation conform to law, they shall, when all fees and charges have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed" and the month, day, and year of filing thereof;

(2) file one of such duplicate originals in their office;

(3) issue a certificate of incorporation to which they shall affix the other duplicate original;

(4) deliver the certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto, to the incorporators or their representative.

(Aug. 6, 1962, 76 Stat. 276, Pub. L. 87–569, § 31.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1032. Effect of issuance of certificate of incorporation.

Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such

certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter, except as against the District of Columbia in a proceeding to cancel or revoke the certificate of incorporation. (Aug. 6, 1962, 76 Stat. 277, Pub. L. 87–569, § 32.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1033. Organization meetings.

(a) After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held within the United States at the call of a majority of the directors so named for the purpose of adopting bylaws (unless the power to adopt bylaws has been reserved by the articles of incorporation to the members, in which event the bylaws shall be adopted by the members), electing officers, and the transaction of such other business as may come before the meeting. The directors calling the meeting shall give at least five days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting: *Provided, however*, That if all the directors shall waive notice in writing and fix a time and place for said organization meeting no notice shall be required of such meeting.

(b) A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least five days' notice, for such purposes as shall be stated in the notice of meeting. (Aug. 6, 1962, 76 Stat. 277, Pub. L. 87–569, § 33.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1034. Right to amend articles of incorporation.

A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired: *Provided,* That its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation if made at the time of making such amendment. (Aug. 6, 1962, 76 Stat. 277, Pub. L. 87–569, § 34.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1035. Procedure to amend articles of incorporation.

Amendments to the articles of incorporation shall be made in the following manner:

(a) Where there are members having voting rights, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting.

(b) Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. If the meeting be an anual meeting, the proposed amendment or such summary shall be included in the notice of such annual meeting.

(c) The proposed amendment shall be adopted upon receiving the affirmative vote of at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(d) Where there are no members, or no members having voting rights, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

(e) Any number of amendments may be submitted and voted upon at any one meeting. (Aug. 6, 1962, 76 Stat. 277, Pub. L. 87–569, § 35.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1036. Articles of amendment.

The articles of amendment shall be executed in duplicate by the corporation by its president or a vice president, and the corporate seal shall be thereto affixed, attested by its secretary or an assistant secretary, and shall set forth—

(a) the name of the corporation;

(b) the amendment so adopted;

(c) where there are members having voting rights, (1) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting, or (2) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto;

(d) where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

(Aug. 6, 1962, 76 Stat. 278, Pub. L. 87–569, § 36.)

§ 29–1037. Filing of articles of amendment.

(a) Duplicate originals of the articles of amendment shall be delivered to the Commissioners.

(b) If the Commissioners find that the articles of amendment conform to law, they shall, when all fees and charges have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;

(2) file one of such duplicate originals in their office;

(3) issue a certificate of amendment to which they shall affix the other duplicate original;

(4) deliver the certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto, to the corporation or its representative.

(Aug. 6, 1962, 76 Stat. 278, Pub. L. 87–569, § 37.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1038. Effect of certificate of amendment.

(a) Upon the issuance of the certificate of amendment, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

(b) No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason. (Aug. 6, 1962, 76 Stat. 278, Pub. L. 87–569, § 38.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1039. Procedure for merger.

Any two or more domestic corporations subject to the provisions of this chapter may merge into one of such corporations in the following manner:

The board of directors of each corporation shall, by resolution adopted by a majority vote of the members of each such board, approve a plan of merger setting forth—

(a) the names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation;

(b) the terms and conditions of the proposed merger;

(c) a statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger;

(d) such other provisions with respect to the proposed merger as are deemed necessary or desirable.

(Aug. 6, 1962, 76 Stat. 279, Pub. L. 87–569, § 39.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1040. Procedure for consolidation.

Any two or more domestic corporations subject to the provisions of this chapter may consolidate into a new corporation in the following manner:

The board of directors of each corporation shall, by resolution adopted by a majority vote of the members of each such board, approve a plan of consolidation setting forth—

(a) the names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation;

(b) the terms and conditions of the proposed consolidation;

(c) with respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter;

(d) such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

(Aug. 6, 1962, 76 Stat. 279, Pub. L. 87–569, § 40.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1041. Approval of merger or consolidation.

A plan of merger or consolidation shall be approved in the following manner:

(a) Where the members of any merging or consolidating corporation have voting rights, the board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting.

(b) Written or printed notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members.

(c) At each such meeting, a vote of the members shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved upon receiving the affirmative vote of at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(d) Where any merging or consolidating corporation has no members, or no members having voting rights, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

(e) After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation. (Aug. 6, 1962, 76 Stat. 279, Pub. L. 87–569, § 41.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1042. Articles of merger or consolidation.

(a) Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice president, and the corporate seal of each such corporation shall be thereto affixed, attested by its secretary or an assistant secretary, and shall set forth—

(1) the plan of merger or the plan of consolidation;

(2) where the members of any merging or consolidating corporation have voting rights, then as to each such corporation (a) a statement setting forth the date of the meeting of members at which the plan was approved, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting, or (b) a statement that such amendment was approved by a consent in writing signed by all members entitled to vote with respect thereto;

(3) where any merging or consolidating corporation has no members, or no members having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was approved and a statement of the fact that such plan

received the vote of a majority of the directors in office.

(b) Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the Commissioners.

(c) If the Commissioners find that such articles conform to law, they shall, when all fees and charges have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;

(2) file one of such duplicate originals in their office;

(3) issue a certificate of merger or a certificate of consolidation to which they shall affix the other duplicate original;

(4) deliver the certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto, to the surviving or new corporation, as the case may be, or its representative.

(Aug. 6, 1962, 76 Stat. 280, Pub. L. 87–569, § 42.)

Effective Date

See section 29–1099k.

§ 29–1043. Effective date of the merger or consolidation.

Upon the issuance of the certificate of merger, or the certificate of consolidation by the Commissioners, the merger or consolidation shall be effected.

(Aug. 6, 1962, 76 Stat. 280, Pub. L. 87–569, § 43.)

Effective Date

See section 29–1099k.

§ 29–1044. Effect of merger or consolidation.

When such merger or consolidation has been effected—

(a) the several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation;

(b) the separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease;

(c) such surviving or new corporation, as the case may be, shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a corporation organized under this chapter;

(d) such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property—real, personal, and mixed—and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate or other property, or any interest therein, vested in any of such corporations shall not revert unless required by the terms of the gift, bequest, or devise, or be in any way impaired by reason of such merger or consolidation;

(e) such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted to judgement as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation;

(f) in the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the articles of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the articles of incorporation of the new corporation.

(Aug. 6, 1962, 76 Stat. 280, Pub. L. 87–569, § 44.)

Effective Date

See section 29–1099k.

§ 29–1045. Merger or consolidation of domestic and foreign corporations.

One or more foreign corporations and one or more domestic corporations may be merged or consolidated if permitted by the laws of the State or country under which each such foreign corporation is organized.

(a) Each domestic corporation shall comply with the provisions of this chapter with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the State or country under which it is organized.

(b) If the surviving or new corporation, as the case may be, is to be governed by the laws of any State or country other than the District of Columbia, it shall comply with the provisions of this chapter with respect to foreign corporations if it is to carry on its affairs in the District of Columbia, and in every case it shall deliver to the Commissioners, who shall file—

(1) an agreement that it may be served with process in the District of Columbia in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation;

(2) an irrevocable appointment of the Commissioners of the District of Columbia as its agent to accept service of process in any such proceeding; and

(3) a post office address to which the Commissioners may mail a copy of any service of process, notice, or demand against the corporation that may be served on them.

(c) The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws

of the District of Columbia. If the surviving or new corporation is to be governed by the laws of any jurisdiction other than the District of Columbia, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other jurisdiction provide otherwise. (Aug. 6, 1962, 76 Stat. 281, Pub. L. 87–569, § 45.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1046. Sale, lease, exchange, or mortgage of assets.

A sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, the property and assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(a) Where there are members having voting rights, the board of directors shall adopt a resolution recommending such sale, lease, exchange, mortgage, pledge, or other disposition and directing the submission thereof to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting.

(b) Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by this chapter for the giving of notice of meetings of members.

(c) At such meeting the members may authorize such sale, lease, exchange, mortgage, pledge, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require the vote of at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(d) After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, mortgage, pledge, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

(e) Where there are no members, or no members having voting rights, a sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office. (Aug. 6, 1962, 76 Stat. 282, Pub. L. 87–569, § 46.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1047. Voluntary dissolution.

A corporation may dissolve and wind up its affairs in the following manner:

(a) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(b) Where there are no members, or no members having voting rights, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

(c) Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except in so far as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, and shall proceed to collect its assets and apply and distribute them as provided in this chapter. (Aug. 6, 1962, 76 Stat. 283, Pub. L. 87–569, § 47.)

EFFECTIVE DATE

See section 29–1099k.

CROSS REFERENCE

See also chapter 8, title 29.

§ 29–1048. Distribution of assets.

The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(a) All liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provision shall be made therefor.

(b) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements.

(c) Assets received and held by the corporation subject to limitations, permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this chapter.

(d) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others.

(e) Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or not for profit, as may be specified if a plan of distribution adopted as provided in this chapter. (Aug. 6, 1962, 76 Stat. 283, Pub. L. 87–569, § 48.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1049. Plan of distribution.

A plan providing for the distribution of assets, not inconsistent with the provisions of this chapter, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this chapter requires a plan of distribution, in the following manner:

(a) Where there are members having voting rights the board of directors shall adopt a resolution recommending a plan of distribution and directing that the plan be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. Such plan of distribution shall be adopted upon receiving at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(b) Where there are no members, or no members having voting rights, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office. (Aug. 6, 1962, 76 Stat. 284, Pub. L. 87–569, § 49.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1050. Revocation of voluntary dissolution proceedings.

A corporation may, at any time prior to the issuance of a certificate of dissolution by the Commissioners, as hereinafter provided, revoke the action theretofore taken to dissolve the corporation, in the following manner:

(a) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(b) Where there are no members, or no members having voting rights, a resolution to revoke the voluntary dissolution proceeding shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

(c) Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation may thereupon again conduct its affairs. If the articles of dissolution have been delivered to the Commissioners, notice of such revocation shall be given to them in writing. (Aug. 6, 1962, 76 Stat. 284, Pub. L. 87–569, § 50.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1051. Articles of dissolution.

If voluntary dissolution proceedings have not been revoked, when all debts, liabilities, and obligations of the corporation shall have been paid and discharged, or adequate provisions shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed, or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice president, and the corporate seal shall be thereto affixed and attested by its secretary or an assistant secretary, and such statement shall set forth—

(a) the name of the corporation;

(b) where there are members having voting rights—

(1) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting, or

(2) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto;

(c) where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office;

(d) that all debts, liabilities, and obligations of the corporation have been paid and discharged or that adequate provision has been made therefor;

(e) that all the remaining property and assets of the corporation have been transferred, conveyed, or distributed in accordance with the provisions of this chapter;

(f) that there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

(Aug. 6, 1962, 76 Stat. 285, Pub. L. 87–569, § 51.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1052. Filing of articles of dissolution.

(a) Duplicate originals of such articles of dissolution shall be delivered to the Commissioners.

(b) If the Commissioners find that such articles of dissolution conform to law, they shall, when all fees and charges have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;

(2) file one of such duplicate originals in their office;

(3) issue a certificate of dissolution to which they shall affix the other duplicate original;

(4) deliver the certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto, to the representative of the dissolved corporation.

(c) Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by members, directors, and officers as provided in this chapter. (Aug. 6, 1962, 76 Stat. 285, Pub. L. 87–569, § 52.)

Effective Date

See section 29–1099k.

§ 29–1053. Involuntary dissolution.

(a) A corporation may be dissolved involuntarily by a decree of the court in an action instituted by the Commissioners in the name of the District of Columbia when it is made to appear to the court that—

(1) the franchise of the corporation was procured through fraud; or

(2) the corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(3) the corporation has failed for ninety days to appoint and maintain a registered agent as provided in this chapter; or

(4) the corporation has failed for ninety days after change of its registered office or registered agent to deliver to the Commissioners a statement of such change.

(b) At least thirty days before any action for the involuntary dissolution of a corporation shall be filed by the Commissioners, they shall notify the corporation by certified or registered mail addressed to such corporation at its registered office a notice of their intention to file such suit and the reason therefor. If, before action is filed, the corporation as the case may be shall submit satisfactory evidence that said franchise was not procured through fraud or that the corporation has not exceeded or abused such authority or shall appoint or maintain a registered agent as provided in this chapter, or deliver to the Commissioners the required statement of change of registered agent, the Commissioners shall not file an action against such corporation for such cause. If, after action is filed, for a reason stated in paragraph (3) or (4) of the preceding subsection the corporation shall as the case may be appoint or maintain a registered agent as provided in this chapter, or shall deliver to the Commissioners the required statement of change of registered agent, and shall pay the costs of such action, the action for such cause shall abate. (Aug. 6, 1962, 76 Stat. 286, Pub. L. 87–569, § 53.)

Effective Date

See section 29–1099k.

Cross Reference

See also chapter 8, title 29.

§ 29–1054. Venue and process.

In every action for the involuntary dissolution of a corporation hereinbefore provided, summons shall issue and be served as in other civil actions. In case a return is made thereon that no officer or agent of such corporation can be found within the territorial limits of the District of Columbia, then the Commissioners shall cause publication to be made in some newspaper of general circulation published in the District of Columbia, containing a notice of the pendency of such action, the title of the court, the names of the parties thereto, and the date on or after which default may be entered. The Commissioners shall cause a copy of such notice to be mailed by registered or certified mail to the corporation at its registered office within ten days after the first publication thereof. The certificate of the Commissioners of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than thirty days after the first publication of such notice. The cost of publication of such notice shall be paid by the Commissioners, unless the decree is against the corporation and such cost is collected from it. (Aug. 6, 1962, 76 Stat. 286, Pub. L. 87–569, § 54.)

Effective Date

See section 29–1099k.

§ 29–1055. Jurisdiction of court to liquidate assets and affairs of corporation.

The United States District Court for the District of Columbia shall have full power to liquidate the assets and affairs of a corporation—

(a) in any action by a member or director when it is made to appear—

(1) that the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights; or

(2) that the acts of the directors or those in control of the corporation are illegal, oppressive, or fraudulent; or

(3) that the corporate assets are being misapplied or wasted; or

(4) that the corporation is unable to carry out its purposes;

(b) in an action by a creditor—

(1) when the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or

(2) when the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent;

(c) upon application by a corporation to have its dissolution continued under the supervision of the court;

(d) when an action has been commenced by the Commissioners to dissolve a corporation and it is made to appear that liquidation of its affairs should precede the entry of a decree of dissolution;

(e) it shall not be necessary to make directors or members parties to any such action or proceeding unless relief is sought against them personally.

(Aug. 6, 1962, 76 Stat. 287, Pub. L. 87–569, § 55.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1056. Procedure in liquidation of corporation by court.

(a) In proceedings to liquidate the assets and affairs of a corporation the court shall have the power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the affairs of the corporation until a full hearing can be had.

(b) After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey, and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

(c) The assets of the corporation or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(1) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provision shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with such requirements;

(3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in actives substantially similar to those of the dissolving or liquidating corporation as the court may direct;

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members or any class or classes of members, or provide for distribution to others;

(5) Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in this chapter, or where no plan of distribution has been adopted, as the court may direct.

(d) The court shall have power to allow, from time to time, as expenses of the liquidation, compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

(e) A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall, for the purposes of this chapter, have exclusive jurisdiction of the corporation and its property, wherever situated. (Aug. 6, 1962, 76 Stat. 287, Pub. L. 87–569, § 56.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1057. Qualification of receivers.

A receiver shall in all cases be a citizen of the United States or a corporation for profit authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in the District of Columbia, and shall in all cases give such bond as the court may direct with such sureties as the court may require. (Aug. 6, 1962, 76 Stat. 288, Pub. L. 87–569, § 57.)

§ 29–1058. Filing of claims in liquidation proceedings.

In proceedings to liquidate the assets and affairs of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation. (Aug. 6, 1962, 76 Stat. 288, Pub. L. 87–569, § 58.)

§ 29–1059. Discontinuance of liquidation proceedings.

The liquidation of the assets and affairs of a corporation may be discontinued at any time during

the liquidation proceedings when it is made to appear that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the received to redeliver to the corporation all its remaining property and assets. (Aug. 6, 1962, 76 Stat. 289, Pub. L. 87–569, § 59.)

§ 29–1060. Decree of dissolution.

In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of this chapter, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease. (Aug. 6, 1962, 76 Stat. 289, Pub. L. 87–569, § 60.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1061. Filing of decree of dissolution.

In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of the court to cause a certified copy of the decree to be delivered to the Commissioners, who shall file the same. No fee shall be charged by the Commissioners for the filing thereof. (Aug. 6, 1962, 76 Stat. 289, Pub. L. 87–569, § 61.)

§ 29–1062. Deposits in registry of court.

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to any person who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited in the registry of the court and shall be paid over to such person or to his legal representative upon proof satisfactory to the court of his right thereto. If any portion thereof remain in the registry after ten years from the date of deposit, it shall escheat to the District of Columbia and shall be paid into the Treasury of the United States for the credit of the said District. (Aug. 6, 1962, 76 Stat. 289, Pub. L. 87–569, § 62.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1063. Survival of remedy after dissolution.

The dissolution of a corporation or the expiration of its period of duration shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members for any right or claim existing, or any liability incurred, prior to such dissolution if suit or other proceeding thereon is commenced within two years after the date of such dissolution. Any suit or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right, or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years so as to extend its period of duration. (Aug. 6, 1962, 76 Stat. 289, Pub. L. 87–569, § 63.)

§ 29–1064. Admission of foreign corporation.

(a) A foreign corporation to which this chapter is applicable shall procure a certificate of authority from the Commissioners before it conducts affairs in the District, but no foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in the District any affairs which a corporation organized under this chapter is not permitted to conduct. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of the District, and nothing in this chapter contained shall be construed to authorize the District to regulate the organization or the internal affairs of such corporation.

(b) Without excluding other activities which may not constitute conducting affairs in the District of Columbia, a foreign corporation shall not be considered to be conducting affairs in the District for the purposes of the chapter, by reason of conducting an isolated transaction completed in thirty days and not in the course of a number of repeated transactions of like nature or by reason of any one or more of the following activities in the District:

(1) maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the setlement thereof or the settlement of claims or disputes;

(2) holding meetings of its directors or members or carrying on other activities concerning its internal affairs;

(3) maintaining bank accounts;

(4) creating evidences of debt, mortgages, or liens on real or personal property;

(5) collecting its debts, taking security for the same, or enforceing any rights in property securing the same.

(Aug. 6, 1962, 76 Stat. 290, Pub. L. 87–569, § 64.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1065. Powers of foreign corporation.

(a) No foreign corporation to which this chapter is applicable shall conduct in the District any affairs which may not be conducted by a corporation organized under this chapter.

(b) A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same rights and privileges as, but no greater rights and privileges than, a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authority is issued; and, except as in this chapter otherwise provided, shall be subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed upon a domestic corpora-

tion of like character. (Aug. 6, 1962, 76 Stat. 290, Pub. L. 87–569, § 65.)

Effective Date

See section 29–1099k.

§ 29–1066. Corporate name of foreign corporation.

No certificate of authority shall be issued to a foreign corporation—

(a) which has a name the same as, or deceptively similar to, the name of any domestic corporation, whether for profit or not for profit, organized under any Act of Congress authorizing the formation of corporations under the laws of the District of Columbia or that of any corporation created pursuant to any special Act of Congress to transact business or conduct affairs in the District, or that of any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in the District, or a name, the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or in accordance with the provisions of the District of Columbia Business Corporation Act;

(b) unless the corporate name of such corporation is in English, or is transliterated into letters of the English alphabet if it is not in English.

(Aug. 6, 1962, 76 Stat. 290, Pub. L. 87–569, § 66.)

Reference in Text

The District of Columbia Business Corporation Act, referred to in text, is set out in chapter 9 of title 29 of the D.C. Code.

Effective Date

See section 29–1099k.

§ 29–1067. Change of name by foreign corporation.

Whenever a foreign corporation which is authorized to conduct affairs in the District of Columbia shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the authority of such corporation shall be suspended and it shall not thereafter conduct any affairs in the District until it has changed its name to a name which is available to it under the laws of the District. (Aug. 6, 1962, 76 Stat. 291, Pub. L. 87–569, § 67.)

§ 29–1068. Application for certificate of authority.

A foreign corporation, in order to procure a certificate of authority to conduct affairs in the District of Columbia, shall make application therefor to the Commissioners, which application shall set forth—

(a) the name of the corporation and the State or country under the laws of which it is incorporated;

(b) the date of incorporation and the period of duration of the corporation;

(c) the address, including street and number, if any, of the principal office of the corporation in the State or country under the laws of which it is incorporated;

(d) the address, including street and number, if any, of the proposed registered office of the corporation in the District, and the name of its proposed registered agent in the District at such address;

(e) a brief statement of the purposes it proposes to pursue in conducting its affairs in the District;

(f) the names and respective addresses, including street and number, if any, of the directors and officers of the corporation;

(g) such additional information as may be necessary or appropriate in order to enable the Commissioners to determine whether such corporation is entitled to a certificate to conduct affairs in the District.

Such application shall be executed in duplicate by the corporation by its president or a vice president, and the corporate seal shall be thereto affixed, attested by its secretary or an assistant secretary. (Aug. 6, 1962, 76 Stat. 291, Pub. L. 87–569, § 68.)

Effective Date

See section 29–1099k.

§ 29–1069. Filing of application for certificate of authority.

(a) There shall be delivered to the Commissioners—

(1) duplicate originals of the application of the corporation for a certificate of authority;

(2) a copy of its articles of incorporation and all amendments thereto, duly certified by the proper officer of the State or country under the laws of which it is incorporated.

(b) If the Commissioners find that such application conforms to law, they shall, when all fees and charges have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;

(2) file in their office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto;

(3) issue a certificate of authority to conduct affairs in the District to which they shall affix the other duplicate original application;

(4) deliver the certificate of authority, together with the duplicate original of the application affixed thereto, to the corporation or its representative.

(Aug. 6, 1962, 76 Stat. 291, Pub. L. 87–569, § 69.)

Effective Date

See section 29–1099k.

§ 29–1070. Effect of certificate of authority.

Upon the issuance of a certificate of authority by the Commissioners, the corporation shall have the right to conduct affairs in the District for those purposes set forth in its application, subject, however, to the right of the District to suspend or to revoke such authority as provided in this chapter. (Aug. 6, 1962, 76 Stat. 292, Pub. L. 87–569, § 70.)

§ 29–1071. Registered office and registered agent of foreign corporation.

Each foreign corporation authorized to conduct affairs in the District shall have and continuously maintain in the District—

(a) a registered office which may be, but need not be, the same as its principal office in the District;

(b) a registered agent, which agent may be either an individual resident in the District whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in the District, having a business office identical with such registered office.

(Aug. 6, 1962, 76 Stat. 292, Pub. L. 87–569, § 71.)

§ 29–1072. Change of registered office or registered agent of foreign corporation.

(a) The registered office of a corporation or its registered agent, or both, may be changed by delivering to the Commissioners a statement setting forth—

(1) the name of the corporation;

(2) the address, including street and number, if any, of its then registered office;

(3) if the address of its registered office is to be changed, the address, including street and number, if any, to which the registered office is to be changed;

(4) the name of its then registered agent;

(5) if its registered agent is to be changed, the name of its successor registered agent;

(6) that the address of its registered office and the address of the office of its registered agent, as changed, will be identical;

(7) that such change was authorized by resolution duly adopted by its board of directors, or was authorized by an officer of the corporation duly empowered to make such change.

(b) Such statement shall be executed in duplicate by its president or vice president, and the corporate seal shall be thereto affixed, attested by its secretary or an assistant secretary, and shall be delivered to the Commissioners. If the Commissioners find that such statement conforms to law, they shall, when all fees and charges have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;

(2) file one of such duplicate originals in their office;

(3) return the other duplicate original to the corporation or its representative.

(c) The change of address of the registered office, or the change of registered agent, or both, as the case may be, shall become effective upon the filing of such statement by the Commissioners.

(d) A foreign corporation shall change its registered agent if the office of registered agent shall become vacant for any reason, or if its registered agent becomes disqualified or incapacitated to act, or if it revokes the appointment of its registered agent.

(e) Any registered agent of a foreign corporation may resign as such agent by delivering a written notice thereof, executed in duplicate, to the Commissioners who shall file one copy thereof in their office and forthwith mail a copy thereof to the corporation at its principal office in the state or country under the laws of which it is incorporated as the same appears in the records of the Commissioners. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the Commissioners or upon the appointment of a successor agent becoming effective, whichever occurs sooner. No fee or charge of any kind shall be imposed with respect to a filing under this subsection. (Aug. 6, 1962, 76 Stat. 292, Pub. L. 87–569, § 72.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1073. Service of process on foreign corporation.

(a) The registered agent so appointed by a foreign corporation authorized to conduct affairs in the District shall be an agent of such corporation upon whom any process, notice, or demand required or permitted by law to be served upon the corporation, may be served. Service of any such process, notice, or demand upon a corporate agent, as such agent, may be had by delivering a copy of such process, notice, or demand to the president, vice president, the secretary, or an assistant secretary of such corporate agent.

(b) Whenever a foreign corporation authorized to conduct affairs in the District shall fail to appoint or maintain a registered agent in the District, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the Commissioners shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the Commissioners of any such process, notice, or demand shall be made by delivering to and leaving with them, or with any clerk having charge of their office, duplicate copies of such process, notice, or demand. In the event any such process, notice, or demand is served on the Commissioners, they shall immediately cause one of such copies thereof to be forwarded by registered or certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated, as the same appears in the records of the Commissioners.

(c) If any foreign corporation shall conduct affairs in the District without a certificate of authority, it shall by conducting such affairs be deemed to have thereby appointed the Commissioners its agent and representative upon whom any process, notice, or demand may be served. Service shall be made by delivery to and leaving with the Commissioners, or with any clerk having charge of their office, duplicate copies of such process, notice, or demand, together with an affidavit giving the latest known post office address of such corporation, and such service shall be sufficient if notice thereof and a copy of the process, notice, or demand are forwarded by registered or certified mail, addressed to such corporation at the address given in such affidavit.

(d) The Commissioners shall keep a record of all processes, notices, and demands served upon them under this section, and shall record therein the time of such service and their action with reference thereto.

(e) Nothing herein contained shall limit or affect the right to serve any process, notice, or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. (Aug. 6, 1962, 76 Stat. 293, Pub. L. 87–569, § 73.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1074. Amendment to articles of incorporation of foreign corporation.

Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in the District are amended, such foreign corporation shall, within ninety days after such amendment becomes effective, file with the Commissioners a copy of such amendment duly certified by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in conducting its affairs in the District, nor authorize such corporation to conduct affairs in the District under any other name than the name set forth in its certificate of authority. (Aug. 6, 1962, 76 Stat. 294, Pub. L. 87–569, § 74.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1075. Merger of foreign corporation.

Whenever a foreign corporation authorized to conduct affairs in the District shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within ninety days after such merger becomes effective, deliver to the Commissioners a copy of the articles of merger duly certified by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to conduct affairs in the District unless the name of such corporation be changed thereby or unless the corporation desires to pursue in the District other or additional purposes than those which it is then authorized to pursue in the District. (Aug. 6, 1962, 76 Stat. 294, Pub. L. 87–569, § 75.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1076. Amended certificate of authority.

(a) A foreign corporation authorized to conduct affairs in the District shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in the District other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the Commissioners.

(b) The requirements in respect to the form and contents of such application, the manner of its execution, the delivering of duplicate originals thereof to the Commissioners, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority. (Aug. 6, 1962, 76 Stat. 294, Pub. L. 87–569, § 76.)

§ 29–1077. Withdrawal of foreign corporation.

(a) A foreign corporation authorized to conduct affairs in the District may withdraw from the District upon procuring from the Commissioners a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Commissioners an application for withdrawal.

(b) The application for withdrawal shall state—

(1) the name of the corporation and the state or country under the laws of which it is incorporated;

(2) that the corporation is not conducting affairs in the District;

(3) that the corporation surrenders its authority to conduct affairs in the District;

(4) that the corporation revokes the authority of its registered agent in the District to accept service of process and consents that service of process in any action, suit, or proceeding based upon any cause of action arising in the District during the time the corporation was authorized to conduct affairs in the District may thereafter be made on such corporation by service thereof on the Commissioners;

(5) a post office address to which the Commissioners may mail a copy of any process against the corporation that may be served on them.

(c) The application for withdrawal shall be executed by the corporation by its president or a vice president, and the corporate seal shall be thereto affixed, attested by its secretary or an assistant secretary, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him. (Aug. 6, 1962, 76 Stat. 295, Pub. L. 87–569, § 77.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1078. Filing of application for withdrawal.

(a) Duplicate originals of such application for withdrawal shall be delivered to the Commissioners. If the Commissioners find that such application conforms to law, they shall, when all fees have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;

(2) file one of such duplicate originals in their office;

(3) issue a certificate of withdrawal to which they shall affix the other duplicate original;

(4) deliver the certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto, to the corporation or its representative.

(b) Upon the issuance of such certificate of withdrawal, the authority of the corporation to conduct affairs in the District shall cease. (Aug. 6, 1962, 76 Stat. 295, Pub. L. 87–569, § 78.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1079. Revocation of certificate of authority.

(a) The certificate of authority of a foreign corporation to conduct affairs in the District may be revoked by the Commissioners when they find that—

(1) the certificate of authority of the corporation was procured through fraud practiced upon the District; or

(2) the corporation has continued to exceed or has abused the authority conferred upon it by this chapter; or

(3) the corporation has failed for a period of ninety days to pay any fees, charges, or penalties prescribed by this chapter; or

(4) the corporation has failed for a period of ninety days to appoint and maintain a registered agent in the District; or

(5) the corporation has failed for ninety days after change of its registered office or registered agent to file with the Commissioners a statement of such changes; or

(6) the corporation for a period of two years has not conducted any affairs in the District; or

(7) the corporation has failed to file with the Commissioners a duly certified copy of each amendment to its articles of incorporation within ninety days after such amendment becomes effective; or

(8) a misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this chapter.

(b) No certificate of authority of a foreign corporation shall be revoked by the Commissioners unless (1) they shall have given the corporation not less than thirty days' notice thereof by certified or registered mail addressed to such corporation at its principal office in the state or country under the laws of which such corporation is organized, as the same appears in the records of the Commissioners or at its registered office in the District, and (2) the corporation, prior to such revocation and as the case may be, shall fail to submit satisfactory evidence that said certificate was not procured by such fraud, or that the corporation has not exceeded or abused such authority, or shall fail to pay such fees, charges, or penalties, or shall fail to appoint a registered agent in the District, or shall fail to file the required statement of change of registered office or registered agent, or shall fail to file a statement showing that it has conducted affairs in the District within a period of two years, or shall fail to file a copy of any such amendment to its articles of incorporation, or shall fail to submit satisfactory evidence that a misrepresentation of a material matter was not made in any such application, report, affidavit, or other document. (Aug. 6, 1962, 76 Stat. 295, Pub. L. 87–569, § 79.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1080. Issuance of certificate of revocation.

(a) Upon revoking any such certificate of authority, the Commissioners shall—

(1) issue a certificate of revocation in duplicate;

(2) file one of such certificates in their office;

(3) mail the other such certificate to such corporation at its registered office in the District or to its principal place of business as the same appears in the records of the Commissioners.

(b) Upon the issuance of such certificate of revocation, the authority of the corporation to conduct affairs in the District shall cease. (Aug. 6, 1962, 76 Stat. 296, Pub. L. 87–569, § 80.)

§ 29–1081. Application to foreign corporations conducting affairs on the effective date of this chapter.

Foreign corporations conducting affairs in the District at the time this chapter takes effect for a purpose or purposes for which a certificate of authority is required under the provisions of this chapter shall, within six months after the effective date of this chapter, procure a certificate of authority and shall otherwise comply with all applicable provisions of this chapter. Failure to secure a certificate of authority within the time provided in this section shall subject the corporation to all the penalties, liabilities, and restrictions provided in this Act for conducting affairs without a certificate of authority. (Aug. 6, 1962, 76 Stat. 296, Pub. L. 87–569, § 81.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1082. Conducting affairs without certificate of authority.

(a) No foreign corporation which is conducting affairs in the District without a certificate of authority shall be permitted to maintain any action, suit, or proceeding in any court of the District until such corporation shall have obtained a certificate of authority. Nor shall any action, suit, or proceeding be maintained in any court of the District by any successor or assignee of such corporation on any right, claim, or demand arising out of the conduct of affairs by such corporation in the District, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

(b) The failure of a foreign corporation to obtain a certificate of authority to conduct affairs in the District shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit, or proceeding in any court of the District.

(c) A foreign corporation which conducts affairs in the District without a certificate of authority shall be liable to the District for the years or parts thereof during which it conducted affairs in the District without a certificate of authority, in an amount equal to all fees, penalties, and other charges which would have been imposed by this chapter upon such corporation had it duly applied for and received a certificate of authority to conduct affairs in the District as required by this chapter and thereafter filed all reports required by this chapter; and, in addition thereto, it shall be liable for a penalty to be assessed by the Commissioners of not in excess of $200. The Commissioners shall bring proceedings to recover all amounts due the District under the provisions of this section. Such charges and penalties shall be paid to the District before any certificate of authority is issued to such foreign

corporation. (Aug. 6, 1962, 76 Stat. 297, Pub. L. 87–569, § 82.)

Effective Date

See section 29–1099k.

§ 29–1083. Annual report of domestic and foreign corporations.

(a) Each domestic corporation, and each foreign corporation authorized to conduct affairs in the District, shall prepare an annual report setting forth—

(1) the name of the corporation and the State or country under the laws of which it is incorporated;

(2) the address, including street and number, if any, of its registered office in the District, and the name of its registered agent at such address, and, in the case of a foreign corporation, the address, including street and number, if any, of its principal office in the State or country under the laws of which it is incorporated;

(3) a brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in the District;

(4) the names and respective addresses, including street and number, if any, of the directors and officers of the corporation.

(b) such annual report shall be made on forms prescribed and furnished by the Commissioners, and the information therein contained shall be given as of the date of the execution of the report. It shall be executed by the corporation by its president, a vice president, secretary, an assistant secretary, treasurer, or assistant treasurer, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee. (Aug. 6, 1962, 76 Stat. 297, Pub. L. 87–569, § 83.)

Effective Date

See section 29–1099k.

§ 29–1084. Filing of annual report of domestic and foreign corporations.

Such annual report of a domestic or foreign corporation shall be delivered to the Commissioners on or before the fifteenth day of April of each year, except that the first annual report of a domestic or foreign corporation shall be delivered to the Commissioners on or before the fifteenth day of April of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the Commissioners. Proof to the satisfaction of the Commissioners that prior to the fifteenth day of April such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the Commissioners find that such report conforms to law, they shall file the same. If they find that it does not so conform, they shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this chapter and returned to the Commissioners in sufficient time to be filed prior to the first day of July of the year in which it is due. (Aug. 6, 1962, 76 Stat. 298, Pub. L. 87–569, § 84.)

Effective Date

See section 29–1099k.

§ 29–1085. Effect of failure to pay annual report fee or to file annual report.

If any corporation incorported under this chapter, or any corporation which has elected to accept this chapter, or any foreign corporation having a certificate of authority issued under this chapter, shall for two consecutive years fail or refuse to pay any annual report fee or fees payable under this chapter, or fail or refuse to file any annual report as required by this chapter for two consecutive years, then, in the case of a domestic corporation, the articles of incorporation shall be void and all powers conferred upon such corporation are declared inoperative, and, in the case of a foreign corporation, the certificate of authority shall be revoked and all powers conferred thereunder shall be inoperative. (Aug. 6, 1962, 76 Stat. 298, Pub. L. 87–569, § 85.)

Effective Date

See section 29–1099k.

§ 29–1086. Proclamation of revocation.

(a) On the second Monday in September of each year, the Commissioners shall issue a proclamation listing the names of all domestic corporations and all foreign corporations which have failed or refused to pay any annual report fee or fees or failed or refused to file any annual report as required by this chapter for two consecutive years next preceding June 30 in the year in which such proclamation is issued and upon the issuance of such proclamation the articles of incorporation or the certificate of authority, as the case may be, shall be void and all powers thereunder inoperative without further proceedings of any kind.

(b) The proclamation of the Commissioners shall be filed in their office and shall be published once during the month of September in each of two daily newspapers of general circulation in the District of Columbia.

(c) Upon publication of the proclamation of revocation as provided in this chapter each domestic corporation listed in such proclamation shall be deemed to have been dissolved without further legal proceedings and each such corporation shall cease to carry on its business and shall, after paying or adequately providing for the payment of all of its obligations, distribute the remainder of its assets, as in this chapter provided with respect to dissolved corporations.

(d) All domestic corporations the articles of incorporation of which are revoked by proclamation or the term of existence of which expires by limitation set forth in its articles of incorporation shall nevertheless be continued for the term of three years from the date of such revocation or expiration bodies corporate for the purpose of prosecuting and defending suits by or against them, and of enabling them to pay, satisfy, and discharge their liabilities and obligations and, after paying or adequately providing for the payment of all its obligations, to

distribute the remainder of their assets, as in this chapter provided with respect to dissolved corporations, but not for the purpose of continuing to conduct the affairs for which such corporation shall have been organized: *Provided, however,* That with respect to any action, suit, or proceeding begun or commenced by or against a corporation prior to such revocation or expiration and with respect to any action. suit, or proceeding begun or commenced by or against such corporation within three years after the date of such revocation or expiration, such corporation shall only for the purpose of such actions, suits, or proceedings so begun or commenced be continued a body corporate beyond said three-year period and until any judgments, orders, or decrees therein shall be fully executed. (Aug. 6, 1962, 76 Stat. 298, Pub. L. 87–569, § 86.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1087. Penalty for conducting affairs after issuance of proclamation.

Any corporation, person, or persons who shall exercise or attempt to exercise any powers under articles of incorporation of a domestic corporation or under a certificate of authority of a foreign corporation which has been revoked shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both. (Aug. 6, 1962, 76 Stat. 299, Pub. L. 87–569, § 87.)

§ 29–1088. Correction of error in proclamation.

Whenever it is established to the satisfaction of the Commissioners that any corporation named in said proclamation has not failed or refused to pay any annual report fee or file any annual report for two consecutive years, or has been inadvertently included in the list of corporations as so failing or refusing to pay annual report fees or file reports, the Commissioners are authorized to correct such mistake by issuing a proclamation to that effect and restoring the articles of incorporation or certificate of authority, as the case may be, to good standing with like effect as if such proclamation of revocation, as to such corporation, had not been issued. (Aug. 6, 1962, 76 Stat. 299, Pub. L. 87–569, § 88.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1089. Reservation of name of proclaimed corporation.

The Commissioners shall reserve the names of all corporations the articles of incorporation of which have been revoked and of all foreign corporations the certificates of authority of which have been revoked until December 31 of the year in which the proclamation of revocation was issued and no domestic corporation shall be formed nor the name of any such domestic corporation changed to a name the same as or deceptively similar to such reserved name nor shall any foreign corporation be authorized to do business under a name the same as or deceptively similar to such reserved name. (Aug. 6, 1962, 76 Stat. 299, Pub. L. 87–569, § 89.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1090. Reinstatement of proclaimed corporations.

(a) A domestic corporation, the articles of incorporation of which have been revoked, may at any time after the date of the issuance of the proclamation of revocation deliver to the Commissioners a petition for reinstatement, in duplicate, accompanied by the delinquent annual report or reports, or payment of delinquent annual report fee or fees in full, or both, as the case may be, plus interest thereon as provided by this chapter, together with any penalties imposed by this chapter. The Commissioners, if they find that all such documents conform to law, and that the period for reservation of the name has not expired, or if such period has expired, that the name is available for corporate use pursuant to the provisions of this chapter, shall file them in their office and shall issue their certificate of reinstatement which shall have the effect of annulling the revocation proceedings theretofore taken as to such corporation and such corporation shall have such powers, rights, duties, and obligations as it had at the time of the issuance of the proclamation with the same force and effect as to such corporation as if the proclamation had not been issued.

(b) If the petition for reinstatement of a proclaimed corporation is delivered to the Commissioners after the period for reservation of the name has expired and if they find that the name is not available for corporate use pursuant to the provisions of this chapter, then, in addition to complying with the provisions of the preceding paragraph the proclaimed corporations shall set forth in its petition for reinstatement its name at the time its articles of incorporation were proclaimed void and the new name by which the corporation will thereafter be known, which shall be a name available for corporate use pursuant to the provisions of this chapter.

(c) A foreign corporation whose certificate of authority has been revoked shall, upon reentering the District, comply with all of the requirements of law applicable to an original application for a certificate of authority, including the payment of the filing fee for filing an application for a certificate of authority, but it need not file again a copy of its articles of incorporation or any amendment thereof that is then on file with the Commissioners. After the revocation of the certificate of authority of a foreign corporation, the Commissioners shall retain the articles of incorporation and amendments theretofore filed and the original application for a certificate of authority for a period of ten years. (Aug. 6, 1962, 76 Stat. 300, Pub. L. 87–569, § 90.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1091. Penalties imposed upon corporations.

Each corporation, domestic or foreign, that fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a penalty of $5 to be assessed by the Commissioners. (Aug. 6, 1962, 76 Stat. 300, Pub. L. 87–569, § 91.)

§ 29–1092. Fees for filing documents and issuing certificates.

The Commissioners shall charge and collect for—

(a) filing articles of incorporation and issuing a certificate of incorporation, $10;

(b) filing articles of amendment and issuing a certificate of amendment, $5;

(c) filing articles of merger or consolidation and issuing a certificate of merger or consolidation, $5;

(d) filing a statement of change of address or registered office or change of registered agent, or both, $1;

(e) filing articles of dissolution, $1;

(f) filing an application for reservation of a corporate name or for a renewal of reservation, $5;

(g) filing notice of transfer of a reserved corporate name, $5;

(h) filing statement of election to accept this chapter and issuing certificate of acceptance, $10;

(i) filing an application of a foreign corporation for a certificate of authority to conduct affairs in the District and issuing a certificate of authority, $10;

(j) filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in the District and issuing an amended certificate of authority, $5;

(k) filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in the District, $5;

(*l*) filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in the District, $5;

(m) filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, $1;

(n) filing application for reinstatement of a domestic or foreign corporation and issuing certificate of reinstatement, $10;

(o) filing any other statement or report, including an annual report, of a domestic or foreign corporation, $1;

(p) indexing each document filed, except an annual report, $2;

(q) furnishing a certified copy of any document, instrument, or paper relating to a corporation, $5;

(r) furnishing a certificate as to the existence or nonexistence of a fact relating to a corporation, $1;

(s) The Commissioners are authorized to make regulations providing for reasonable fees for other services not listed in this section.

(Aug. 6, 1962, 76 Stat. 300, Pub. L. 87–569, § 92.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1093. Commissioners, duties and functions.

(a) The Commissioners shall have the power and authority reasonably necessary to enable them to administer this chapter efficiently and to perform the duties therein imposed upon them.

(b) The Commissioners shall be charged with the administration and enforcement of this chapter. Said Commissioners are authorized to employ such personnel as may be necessary for the administration of this chapter, within appropriations made by Congress. The compensation of such personnel shall be fixed in accordance with the provisions of the Classification Act of 1949, as amended.

(c) The Commissioners may transfer any or all of the functions vested in them by this chapter to any agent designated by them pursuant to law. It shall be the duty of any officer or agency of the government of the District of Columbia to perform any function delegated to such officer or agency by the Commissioners pursuant to this chapter.

(d) Every certificate and other document or paper executed by the Commissioners, in pursuance of any authority conferred upon them by this chapter, and sealed with the seal prescribed by subsection (c) of section 29–935, and all copies of such papers, as well as of documents and other papers filed in accordance with the provisions of this chapter, when certified by them and authenticated by said seal, shall have the same force and effect as evidence as would the originals thereof in any action or proceeding in any court and before a public officer, or official body.

(e) The Commissioners are authorized to make, modify, and enforce such regulations as they may deem necessary to carry out the provisions of this chapter, prescribe penalties for the violation of any such regulation not exceeding a fine of $300 or imprisonment for ninety days, or both, and to prescribe such forms and procedures for use in the conduct of the business of any office or agency established by them as they may deem appropriate. (Aug. 6, 1962, 76 Stat. 301, Pub. L. 87–569, § 93.)

REFERENCE IN TEXT

The Classification Act of 1949, as amended, referred to in subsection (b), is set out in Title 5, chapter 21, of the U.S. Code.

§ 29–1094. Appeal from commissioners.

(a) If the Commissioners shall fail to approve any articles of incorporation, amendment, merger, consolidation, or dissolution, or any other document required by this chapter to be approved by the Commissioners before the same shall be filed in their office, they shall, within ten days after the delivery thereof to them, give written notice of their disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the United States District Court for the District of Columbia by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the Commissioners; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the Commissioners or direct them to take such action as the court may deem proper.

(b) If the Commissioners shall revoke the certificate of authority to conduct affairs in the District of any foreign corporation, pursuant to the provisions of this chapter, such foreign corporation may likewise appeal to the United States District Court for the District of Columbia by filing with the clerk of

such court a petition setting forth a copy of its certificate of authority to conduct affairs in the District and a copy of the notice of revocation given by the Commissioners; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the Commissioners or direct them to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the United States District Court for the District of Columbia under this section in review of any ruling or decision of the Commissioners may be taken as in other civil actions. (Aug. 6, 1962, 76 Stat. 302, Pub. L. 87–569, § 94.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1095. Certificates and certified copies to be received in evidence.

All certificates issued by the Commissioners in accordance with the provisions of this chapter, and all copies of documents filed in their office in accordance with the provisions of this chapter when certified by them, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the Commissioners under the seal of their office, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated. (Aug. 6, 1962, 76 Stat. 302, Pub. L. 87–569, § 95)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1096. Forms to be furnished by commissioners.

All reports required by this chapter to be filed in the office of the Commissioners shall be made on forms which shall be prescribed and furnished by the Commissioners. Forms for all other documents to be filed in the office of the Commissioners shall be furnished by the Commissioners on request therefor, but the use thereof, unless otherwise specifically prescribed in this chapter, shall not be mandatory. (Aug. 6, 1961, 76 Stat. 302, Pub. L. 87–569, § 96.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1097. Greater voting requirements.

Whenever, with respect to any action to be taken by the members or directors of a corporation, the articles of incorporation require the vote or concurrence of a greater proportion of the members or directors, as the case may be, than required by this chapter with respect to such action, the provisions of the articles of incorporation shall control. (Aug. 6, 1962, 76 Stat. 303, Pub. L. 87–569, § 97.)

§ 29–1098. Waiver of notice.

Whenever any notice is required to be given to any member or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Presence without objection also waives notice. (Aug. 6, 1962 76 Stat. 303, Pub. L. 87–569, § 98.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099. Action by members or directors without a meeting.

Any action required by this chapter to be taken at a meeting of the members or directors of a corporation, or any action which may be taken at a meeting of the members or directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the Commissioners under this chapter. (Aug. 6, 1962, 76 Stat. 303, Pub. L. 87–569, § 99.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099a. Unauthorized assumption of corporate powers.

All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof. (Aug. 6, 1962, 76 Stat. 303, Pub. L. 87–569, § 100.)

§ 29–1099b. Procedure to elect to accept chapter.

Any corporation which is organized and existing under the laws of the District of Columbia or under any special Act of Congress on the date this chapter takes effect, and which is organized not for profit, and is without authority to issue shares of stock, and is organized for a purpose or purposes for which a corporation may be organized under the provisions of this chapter may elect to avail itself of the provisions of this chapter in the following manner:

(a) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the corporation accept this chapter and directing that the question of such acceptance be submitted to a vote at a meeting of the members having voting rights which may be either an annual meeting or a special meeting. Written or printed notice setting forth the proposal to accept this chapter shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposal to elect to accept this chapter shall be adopted upon receiving at least two thirds of the vote entitled to be cast by members present or represented by proxy at such meeting.

(b) Where there are no members, or no members having voting rights, the election to accept this chapter may be adopted at a meeting of the board of directors upon receiving the vote of at least a majority of the directors in office. (Aug. 6, 1962, 76 Stat. 303, Pub. L. 87–569, § 101.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099c. Statement of election to accept this chapter.

The statement of election to accept this chapter shall be executed in duplicate by the corporation by its president or vice president, and the corporate seal shall be thereto affixed, attested by its secretary, or an assistant secretary, and shall set forth—

(a) the name of the corporation;

(b) a statement by the corporation that it has elected to accept this chapter;

(c) where there are members having voting rights—

(1) a statement setting forth the date of the meeting of the members at which the election to accept this chapter was adopted; that a quorum was present at such meeting, and that such acceptance received the affirmative vote of at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting, or

(2) a statement that such election to accept this chapter was adopted by a consent, in writing, signed by all members entitled to vote with respect thereto;

(d) where there are no members or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the election to accept this chapter was adopted, and the statement of the fact that such acceptance received the vote of a majority of the directors in office;

(e) the purpose or purposes (which may be different from its existing purposes) which it will thereafter pursue, and shall not include any purpose prohibited to a corporation organized under this chapter;

(f) if the corporation has no members, a statement to that effect;

(g) if the corporation has members, there shall be set forth—

(1) the number of classes of members;

(2) if there is more than one class of members, a statement of the qualifications and rights and limitations of each class of members;

(3) if members, or any class or classes of members, are not entitled to vote, a statement to that effect;

(4) if members, or any class or classes of members are entitled to vote, a statement setting forth the voting rights and of any limitation or limitations thereof of members or of any class or classes thereof;

(h) any other provision, not inconsistent with law, or this chapter, for the regulation of the internal affairs of the corporation;

(i) the address, including street and number, if any, of its registered office in the District of Columbia and the name of its registered agent at such address;

(j) the names and respective addresses, including street and number, if any, of its officers and directors;

(k) it shall not be necessary to set forth in the statement of election to accept this chapter any of the corporate purposes enumerated in this chapter. Whenever a provision in the statement of election to accept this chapter is inconsistent with a bylaw, the provision of the statement of election to accept this chapter shall be controlling.

(Aug. 6, 1962, 76 Stat. 304, Pub. L. 87–569, § 102.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099d. Filing of statement of election to accept this chapter.

(a) Duplicate originals of the statement of election to accept this chapter shall be delivered to the Commissioners.

(b) If the Commissioners find that the statement of election to accept this chapter conforms to law, they shall, when all fees and charges have been paid as in this chapter prescribed—

(1) endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;

(2) file one of such duplicate originals in their office;

(3) issue a certificate of acceptance, to which they shall affix the other duplicate original;

(4) deliver such certificate of acceptance with the other duplicate original affixed thereto to the corporation or its representative.

(Aug. 6, 1962, 76 Stat. 304, Pub. L. 87–569, § 103.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099e. Effect of certificate of acceptance.

(a) Upon the issuance of a certificate of acceptance as hereinbefore provided, the election of the corporation to accept this chapter shall become effective and the existence of the corporation shall be continued under this chapter and such certificate shall be conclusive evidence that all conditions precedent required to be performed under this chapter have been compiled with and that the corporation has elected to accept the provisions of this chapter and the corporation shall be entitled to and be possessed of all of the privileges and powers and franchises and be subject to all of the provisions of this chapter as fully and to the same extent as if such corporation had been originally incorporated under this chapter; and all privileges, franchises, and powers theretofore belonging to said corporation and all property, real, personal, and mixed, and all debts due on whatever account, and all choses in action, and all and every other interest of or belonging to or due such corporation shall be and the same are hereby ratified, approved and confirmed and assured to such corporation with like effect and to all intents and purposes as if the same had been originally acquired through incorporation under this chapter; but no contract, debt, claim, duty, liability, or obligation of any corporation to which a certificate of acceptance has been issued shall be affected or impaired in any way nor shall the rights of creditors or any liens upon the property of such corporation be affected or impaired by such election to accept this chapter.

(b) Neither the issuance of a certificate of acceptance to a corporation created under the provisions of a special Act of Congress, nor the adoption of any amendment pursuant to this chapter, shall release or terminate any duty or obligation expressly imposed upon any such corporation under and by virtue of the special Act of Congress under which it was created or any amendment made thereto, nor enlarge any right, power, or privilege granted any such corporation by such special Act except to the extent that such right, power, or privilege might have been included in the articles of incorporation of a corporation organized under this chapter. (Aug. 6, 1962, 76 Stat. 305, Pub. L. 87–569, § 104.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099f. Actions to be in name of District of Columbia.

All civil actions under this chapter which the Commissioners are authorized to commence, and all prosecutions for violations of the provisions of this chapter or of regulations promulgated under the authority of this chapter, shall be brought in the name of the District of Columbia by the Corporation Counsel of the District of Columbia. As used in this chapter the term "Corporation Counsel" means the attorney for the District, by whatever title such attorney may be known, designated by the Commissioners to perform the functions prescribed for the Corporation Counsel in this chapter. (Aug. 6, 1962, 76 Stat. 305, Pub. L. 87–569, § 105.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099g. Right of repeal reserved.

Congress reserves the right to alter, amend, or repeal this chapter, or any part thereof, or any certificate of incorporation or certificate of authority issued pursuant to its provisions. (Aug. 6, 1962, 76 Stat. 306, Pub. L. 87–569, § 106.)

§ 29–1099h. Chapter not to affect Internal Revenue Code of 1954.

Nothing in this chapter shall be construed as repealing or affecting any provision of the Internal Revenue Code of 1954. (Aug. 6, 1962, 76 Stat. 306, Pub. L. 87–569, § 107.)

REFERENCE IN TEXT

The Internal Revenue Code of 1954 is set out in Title 26, U.S. Code.

§ 29–1099i. Effect of invalidity of part of this chapter.

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this chapter, such judgment or decree shall not affect, impair, invalidate, or nullify the remainder of this chapter, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this chapter so adjudged to be invalid or unconstitutional. (Aug. 6, 1962, 76 Stat. 306, Pub. L. 87–569, § 108.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099j. Effect of false statement.

A person who signs any instrument delivered to the Commissioners pursuant to this chapter, knowing it to contain a misstatement of fact, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment for not exceeding one year, or by both such fine and imprisonment. (Aug. 6, 1962, 76 Stat. 306, Pub. L. 87–569, § 109.)

EFFECTIVE DATE

See section 29–1099k.

§ 29–1099k. Effective date.

This Act [this chapter] shall take effect one hundred and eighty days after the date of its approval. (Aug. 6, 1962, 76 Stat. 306, Pub. L. 87–569, § 110.)

§ 29–1099*l*. Appropriation of funds.

There are hereby authorized to be appropriated from any moneys in the Treasury of the United States to the credit of the District of Columbia, such amounts as may be necessary to carry into effect the provisions of this chapter. (Aug. 6, 1962, 76 Stat. 306, Pub. L. 87–569, §§ 111.)

TITLE 30.—DOMESTIC RELATIONS

Chapter 1.—MARRIAGE

§ 30–101. Prohibitions—Marriages void ab initio.

NOTES TO DECISIONS

1. Common-law marriage

Common-law marriage is recognized in District of Columbia. *E. Matthews* v. *T. Britton, Deputy Commissioner etc.* (1962, 303 F. 2d 408, 112 U.S. App. D.C. 397).

If parties agreed to be husband and wife in ignorance of impediment to lawful matrimony, removal of impediment results in common-law marriage between parties if they have continued to cohabit and live together as husband and wife; the same result obtains even if parties have knowledge of impediment at time that they agree to be married. *Id.*

If man and woman agree to be married before impediment was removed and continued thereafter to cohabit and live together as husband and wife, a common-law union between man and woman was effected when woman's prior spouse was awarded divorce. *Id.*

6. Laches and estoppel

Annulment action was not barred by laches, where evidence supported allegation of complaint that plaintiff did not learn of invalidity of divorce from prior wife until immediately before filing complaint. *M. G. Sears* v. *J. C. Sears* (1961, 293 F. 2d 884, 110 U.S. App. D.C. 407).

Court of equity, in determining whether to interpose bar of equitable estoppel in action to annul marriage, must consider all factors of case, parties involved, effect of ultimate decision on third parties not before court, nature of rights sought to be vindicated, and public policy. *Id.*

Husband, who obtained mail-order Mexican divorce from first wife, married second wife, and lived with second wife for fifteen years, was estopped in his annulment action against second wife, to deny validity of marriage to second wife. *Id.*

§ 30–104. Annulment—Party plaintiff—Next friend—Capable person who knowingly contracted illegal marriage.

2. Laches and estoppel

Husband, who obtained mail-order Mexican divorce from first wife, married second wife, and lived with second wife for fifteen years, was estopped in his annulment action against second wife to deny validity of marriage to second wife. *M. G. Sears* v. *J. C. Sears* (1961, 293 F. 2d 884, 110 U.S. App. D.C. 407).

6. Capable of contracting marriage

In statute providing that no annulment proceedings can be instituted by person who, being "fully capable of contracting a marriage," has knowingly and willfully contracted any marriage declared illegal by statutes, quoted phrase refers to person with intrinsic legal capacity and does not allude to extrinsic impediments to valid marriage. *M. G. Sears* v. *J. C. Sears* (1961, 293 F. 2d 884, 110 U.S. App. D.C. 407).

Chapter 2.—PROPERTY RIGHTS

§ 30–201. Married women—Power to dispose of separate property—Under 21 years of age.

Subject to provisions of section 18–201a, married women shall hold all their property of every description, for their separate use as fully as if they were unmarried, and shall have power to dispose of the same by deed, mortgage, lease, will, gift, or otherwise, as fully as husbands have the power to dispose of their property, and no more; except that no disposition of her real or personal property, or any portion therof, by deed, mortgage, bill of sale, or other conveyance, shall be valid if made by a married woman under twenty-one years of age. (Mar. 3, 1901, 31 Stat. 1374, ch. 854, § 1154; Aug. 31, 1957, 71 Stat. 562, Pub. L. 85–244, § 8; Sept. 14 1961, 75 Stat. 517, Pub. L. 87–246, § 6.)

AMENDMENTS

1961—Act Sept. 14, 1961, 75 Stat. 517, Pub. L. 87–246, § 6, amended this section by striking out the words "of subsection (b)". This amendment was made to conform the section to the provisions of § 18–201a, which was amended by the same act eliminating subsection (b).

EFFECTIVE DATE OF 1961 AMENDMENT

Section 8 of act Sept. 14, 1961, provided that: "The foregoing provisions of this Act [amending sections 18–101, 18–201a, 18–204, 18–211 and 30–201] shall become effective six months after the date of enactment of this Act."

POPULAR NAME

Section 1 of act Sept. 14, 1961, provided: "That this Act (amending sections 18–101, 18–201a, 18–211, 18–204 and 30–201) may be cited as the 'Marital Property Rights Amendments of 1961.'"

CROSS REFERENCE

Dower rights of husband and wife, see § 18–201a.

TITLE 31.—EDUCATION AND CULTURAL INSTITUTIONS

Chapter 7.—RETIREMENT OF PUBLIC SCHOOL TEACHERS

SUBCHAPTER II.—RETIREMENT AFTER JUNE 30, 1946

SUBCHAPTER II.—RETIREMENT AFTER JUNE 30, 1946

§ 31–725. Compensation of annuity—Options.

* * * * *

(b) Any teacher retiring under the provisions of section 31–723 or 31–724 may at the time of retirement, elect to receive in lieu of the life annuity described herein one of the following:

(1) A reduced annuity and an annuity after death payable to his or her surviving widow or widower designated by such teacher at time of retirement equal to 55 per centum of such life annuity. The life annuity of the teacher making such election, excluding any increase because of retirement under section 31–724, shall be reduced by 2½ per centum of so much thereof as does not exceed $3,600 and by 10 per centum of so much thereof as exceeds $3,600. The annuity of such widow or widower shall begin on the first day of the month immediately following the month in which the death of the retired teacher occurs or the first day of the month following the widow's or widower's attainment of age fifty, whichever is the later, and such annuity or any right thereto shall terminate upon his or her death or remarriage.

* * * * *

(As amended Oct. 24, 1962, 76 Stat. 1237, Pub. L. 87–881, title II, § 203(a).)

AMENDMENTS

1962—Section 203(a) of act Oct. 24, 1962, amended subsection (b)(7) by changing "50 per centum" to "55 per centum" and by changing $2,400 to $3,600.

LIMITATIONS OF AMENDMENTS MADE BY ACT OCT. 24, 1962

Section 205 of act Oct. 24, 1962, provides in part as follows: "The amendments made by section 203 [amendments to sections 31–725 and 31–729] shall not apply in the case of employees retired or otherwise separated prior to the date of enactment of this Act [Oct. 24, 1962], and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if these amendments had not been enacted."

PAYMENT OF BENEFITS PROVIDED BY ACT OCT. 24, 1962

Section 204 of act Oct. 24, 1962, provides as follows: "Notwithstanding any other provision of law, the benefits made payable under sections 31–721 to 31–739b, as amended, by reason of the enactment of this title [title II, enacting §§ 31–725b, 31–739a and 31–739b, amending §§ 31–725 and 31–729] shall be paid from the District of Columbia teachers' retirement and annuity fund."

§ 31–725b. Annuity increases granted by act Oct. 24, 1962—Effective date.

(a) The annuity of each person who, on the effective date, is receiving or entitled to receive an annuity from the District of Columbia teachers' retirement and annuity fund shall be increased by 5 per centum of the amount of such annuity.

(b) The annuity of each person who receives or is entitled to receive an annuity from the District of Columbia teachers' retirement and annuity fund commencing during the period which begins on the day following the effective date of this section and ends five years after such date, shall be increased in accordance with the following table:

If the annuity commences between—	The annuity shall be increased by—
January 2, 1963, and December 31, 1963	4 per centum.
January 1, 1964, and December 31, 1964	3 per centum.
January 1, 1965, and December 31, 1965	2 per centum.
January 1, 1966, and December 31, 1966	1 per centum.

(c) In lieu of any other increase provided by this section, the annuity of a survivor of a retired employee who received an increase under this section shall be increased by a percentage equal to the percentage by which the annuity of such employee was so increased.

(d) No increase provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The limitation contained in the next to the last sentence of section 31–725(c)(1), shall not be effective on and after the effective date of this section.

(f) The increases provided by this section shall take affect on the effective date of this section, except that any increase under subsection (b) or (c) shall take effect on the beginning date of the annuity.

(g) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar. (Oct. 24, 1962, 76 Stat. 1235, Pub. L. 87–881, title II, § 201.)

EFFECTIVE DATE

Section 205 of act Oct. 24, 1962, provided that this section "shall take effect on January 1, 1963."

LIMITATIONS REFERRED TO IN SUBSECTION (E)

The limitations are contained in section 31–725, subsection (c)(1) and reads as follows: "Such increase in annuity shall not exceed the sum necessary to increase such annuity exclusive of annuity purchased by voluntary contributions under this section, to $4,104."

PAYMENT OF BENEFITS PROVIDED BY ACT OCT. 24, 1962

Section 204 of act Oct. 24, 1962, provides as follows: "Notwithstanding any other provision of law, the benefits made payable under sections 31–721 to 31–739b, as amended, by reason of the enactment of this title [title

II, enacting §§ 31–725b, 31–739a and 31–739b, amending §§ 31–725 and 31–729] shall be paid from the District of Columbia teachers' retirement and annuity fund."

§ 31–729. Deferred annuity — Refunds — Deposit of amount withdrawn—Annuity to survivors—Determination of dependency and disability.

* * * * *

(b)(1) In the event any teacher to whom this subchapter applies shall die subsequent to March 6, 1952 after having rendered at least five years of service in the public schools of the District of Columbia and is survived by a widow, or dependent widower, such widow or dependent widower shall be paid an annuity beginning the first day of the month following the death of the teacher, equal to 55 per centum of the amount of an annuity computed as provided in section 31–725(a) with respect to such teacher: *Provided,* That such payments or any right thereto shall cease upon the death or remarriage of the widow, or dependent widower, or upon the widower's becoming capable of self-support.

(2) In the event any teacher to whom this subchapter applies shall die subsequent to March 6, 1952 after having rendered at least five years of service in the public schools of the District of Columbia, or after having retired subsequent to March 6, 1952 under section 31–723 or section 31–724, and is survived by a widow or dependent widower and a child or children, such widow or dependent widower shall be paid an immediate annuity terminable upon death, remarriage, or attainment of age fifty. The annuity payable to the widow or dependent widower of such teacher shall be equal to 55 per centum of the amount of an annuity computed as provided in section 31–725(a) with respect to such teacher. The annuity payable to the widow or dependent widower of such annuitant shall be equal to 55 per centum of the amount of the annuity, which such annuitant was receiving at the time of his death, excluding any portion thereof purchased by voluntary contributions under section 31–721, or, if such annuitant had elected a reduced annuity under the provisions of section 31–725(b), 55 per centum of the annuity which such annuitant would have received if he had not made such election.

(3) If any teacher to whom this subchapter applies shall die after completing five years of service in the public schools of the District of Columbia or after having retired under the provisions of section 31–723 or sections 31–724 and is survived by a wife or husband, each surviving child who received more than one-half of his support from the teacher shall be paid an anuity equal to the smallest of (a) 40 per centum of the teacher's average salary divided by the number of children, (b) $600, or (c) $1,800 divided by the number of children. If such teacher is not survived by a wife or husband, each surviving child shall be paid an annuity equal to the smallest of (a) 50 per centum of the teacher's average salary divided by the number of children, (b) $720, or (c) $2,160 divided by the number of children. The child's annuity shall commence on the day after the employee dies, and such annuity granted under this Act or any right thereto shall terminate on the last day of the month before (1) his attaining age eighteen unless incapable of self-support, (2) his becoming capable of self-support after age eighteen, (3) his marriage, or (4) his death, except that the annuity of a child who is a student as described in subsection (c)(2) shall terminate on the last day of the month before (A) his marriage, (B) his death, (C) his ceasing to be such a student, or (D) his attaining age twenty-one. Upon the death of the surviving wife or husband or termination of the annuity of the child, the annuity of any other child or children shall be recomputed and paid as though such wife, husband, or child had not survived the teacher.

* * * * *

(c) As used in this section—

(1) The term "widow" means a surviving wife of an individual, who either shall have been married to such individual for at least two years immediately preceding his death, or is the mother of issue by such marriage.

(2) The term "child" means an unmarried child, including a dependent stepchild or an adopted child, under the age of eighteen years, or such unmarried child who because of physical or mental disability is incapable of self-support, or such unmarried child between eighteen and twenty-one years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child whose twenty-first birthday occurs prior to July 1 or after August 31 of any calendar year, and while he is regularly pursuing such a course of study or training, shall be deemed for the purposes of this paragraph and subsection (b)(3) to have attained the age of twenty-one on the first day of July following such birthday. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed four months and if he shows to the satisfaction of the Commissioners that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim.

* * * * *

(Aug. 7, 1946, 60 Stat. 880, ch. 779, § 9; Mar. 6, 1952, 66 Stat. 19, ch. 95, § 8; June 4, 1957, 71 Stat. 47, Pub. L. 85–46, § 1; Oct. 24, 1962, 76 Stat. 1237, Pub. L. 87–881, title II, § 203 (b), (c), (d), (e).)

AMENDMENTS

Section 203(b) of act Oct. 24, 1962, struck out "one-half" and inserted in lieu thereof "55 per centum of" in subsection (b)(1).

Section 203(c) struck out "one-half" in three places and inserted "55 per centum of" in two places and "55 per centum" in the third place in subsection (b)(2).

Section 203(d)(1) amended the third sentence of subsection (b)(3) to read as above set out.

Stction 203(d)(2) enacted the provision set out as note entitled, "Teachers' Retirement and Annuity Fund".

Section 203(e) amended subsection (c)(2) by changing the period at the end of sentence to a comma and adding the matter beginning with the words "or such unmarried child".

LIMITATIONS OF AMENDMENTS MADE BY ACT OCT. 24, 1962

Section 205 of act Oct. 24, 1962, provides in part as follows: "The amendments made by section 203 [amendments to sections 31–725 and 31–729] shall not apply in the case of employees retired or otherwise separated prior to the date of enactment of this Act [Oct. 24, 1962], and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if these amendments had not been enacted."

PAYMENT OF BENEFITS PROVIDED BY ACT OCT. 24, 1962

Section 204 of act Oct. 24, 1962, provides as follows: "Notwithstanding any other provision of law, the benefits made payable under sections 37–721 to 31–739b, as amended, by reason of the enactment of this title [title II, enacting §§ 31–725b, 31–739a and 31–739b, amending §§ 31–725 and 31–729] shall be paid from the District of Columbia teachers' retirement and annuity fund."

TEACHERS' RETIREMENT AND ANNUITY FUND

Section 203(d)(2) of act Oct. 24, 1962, referring to the provisions of the amendments made to the third sentence of subparagraph (b)(3) above set out provides as follows: "Notwithstanding any other provision of law, the benefits resulting from enactment of this amendment shall be paid from the teachers' retirement and annuity fund."

CROSS REFERENCE

For provisions computing increases for childrens and deceased annuitants see section 31–739b(b)(3).

§ 31–739a. Price index—Definition.

Whenever used in sections 31–721 to 31–739b the term "price index" shall mean the annual average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics. (Oct. 24, 1962, 76 Stat. 1236, Pub. L. 87–881, title II, § 202.)

PAYMENT OF BENEFITS PROVIDED BY ACT OCT. 24, 1962

Section 204 of act Oct. 24, 1962, provides as follows: "Notwithstanding any other provisions of law, the benefits made payable under sections 31–721 to 31–739b, as amended, by reason of the enactment of this title [title II, enacting §§ 31–725b, 31–739a, and 31–739b, amending §§ 31–725 and 31–729] shall be paid from the District of Columbia teachers' retirement and annuity fund."

§ 31–739b. Adjustment of annuities on basis of price index—Computation.

(a) After January 1, 1964, and after each succeeding January 1, the Commissioners of the District of Columbia shall determine the per centum change in the price index from the later of 1962 or the year preceding the most recent cost-of-living adjustment to the latest complete year. On the basis of such Commissioners' determination, the following adjustments shall be made:

(1) Effective April 1, 1964, if the change in the price index from 1962 to 1963 shall have equaled a rise of a least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2, 1963, shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(2) Effective April 1 of any year other than 1964 after the price change shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2 of the preceding year shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(b) Eligibility of an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:

(1) Effective from the date of the first increase under this section, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 31–729(b)(3), which annuity commenced the day after the annuitant's death, shall be increased as provided in subsection (a)(1) or (a)(2) if the commencing date of annuity to the annuitant was earlier than January 2 of the year preceding the first increase.

(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 31–729(b)(3)), which annuity commences the day after the annuitant's death and after the effective date of the first increase under this section, shall be increased by the total per centum increase the annuitant was receiving under this section at death.

(3) For purposes of computing an annuity which commences after the effective date of the first increase under this section to a child under section 31–729(b)(3), the items $600, $720, $1,800, and $2,160 appearing in section 31–729(b)(3) shall be increased by the total per centum increase allowed and in force under this section, and, in case of a deceased annuitant, the items 40 per centum and 50 per centum appearing in section 31–729(b)(3) shall be increased by the total per centum increase allowed and in force under this section to the annuitant at death. Effective from the date of the first increase under this section, the provisions of this paragraph shall apply as if such first increase were in effect with respect to computation of a child's annuity under section 31–729(b)(3) which commenced between January 2 of the year preceding the first increase and the effective date of the first increase.

(c) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(d) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar. (Oct. 24, 1962, 76 Stat. 1236, Pub. L. 87–881, title II, § 202.)

PAYMENT OF BENEFITS PROVIDED BY ACT OCT. 24, 1962

Section 204 of act Oct. 24, 1962, provides as follows: "Notwithstanding any other provision of law, the benefits made payable under sections 31–721 to 31–739b, as amended, by reason of the enactment of this title [title II, enacting §§ 31–725b, 31–739a, and 31–739b, amending §§ 31–725 and 31–729] shall be paid from the District of Columbia teachers' retirement and annuity fund."

Chapter 10.—GALLAUDET COLLEGE

§ 31–1011. Education of colored deaf-mute children of District.

NOTES TO DECISIONS

4. Segregation

Racial discrimination in public education is unconstitutional, and all provisions of Federal, State, or local law requiring or permitting such discrimination must yield to this principle. *Brown et al.* v. *Board of Education of Topeka et al.* (1954, 347 U.S. 483, reargued, 349 U.S. 394).

Racial segregation in the public schools of the District of Columbia is a denial to Negro children of the due process of law guaranteed by the Fifth Amendment. *Bolling et al.* v. *Sharpe et al.* (1954, 347 U.S. 497).

Chapter 11.—MISCELLANEOUS

§ 31–1110. Education of colored children.

NOTES TO DECISIONS

1. Racial discrimination

Racial segregation in the public schools of the District of Columbia is a denial to Negro children of the due process of law guaranteed by the Fifth Amendment. *Bolling et al.* v. *Sharpe et al.* (1954, 347 U.S. 497).

Racial discrimination in public education is unconstitutional, and all provisions of Federal, State, or local law requiring or permitting such discrimination must yield to this principle. *Brown et al.* v. *Board of Education of Topeka et al.* (1954, 347 U S. 483, reargued, 349 U.S. 294).

§ 31–1112. Proportionate amount of school moneys to be set apart for colored schools.

NOTES TO DECISIONS

1. Racial discrimination

Racial discrimination in public education is unconstitutional, and all provisions of Federal, State, or local law requiring or permitting such discrimination must yield to this principle. *Brown et al.* v. *Board of Education of Topeka et al.* (1954, 347 U.S. 483, reargued, 349 U.S. 294).

Racial segregation in the public schools of the District of Columbia is a denial to Negro children of the due process of law guaranteed by the Fifth Amendment. *Bolling et al.* v. *Sharpe et al.* (1954, 347 U.S. 497).

§ 31–1113. Facilities for educating colored children to be provided.

NOTES TO DECISIONS

1. Racial discrimination

Racial discrimination in public education is unconstitutional, and all provisions of Federal, State, or local law requiring or permitting such discrimination must yield to this principle. *Brown et al.* v. *Board of Education of Topeka et al.* (1954, 347 U.S. 483, reargued, 349 U.S. 294).

Racial segregation in the public schools of the District of Columbia is a denial to Negro children of the due process of law guaranteed by the Fifth Amendment. *Bolling et al.* v. *Sharpe et al.* (1954, 347 U.S. 497).

Chapter 15.—SALARIES OF TEACHERS, SCHOOL OFFICERS AND OTHER EMPLOYEES

SUBCHAPTER I.—SALARY SCHEDULES

§ 31–1501. Salaries of teachers, school officers and other employees—Service steps.

The following are the salary schedules for teachers, school officers, and certain other employees of the Board of Education of the District of Columbia whose positions are included therein:

Salary class and position	Service step 1 (minimum)	Service step 2	Service step 3	Service step 4	Service step 5	Service step 6	Service step 7	Service step 8	Service step 9
Class 1: Superintendent of Schools	$19,000								
Class 2: Deputy superintendent	16,500								
Class 3: Assistant superintendent: president, teachers college	14,350	$14,600	$14,850	$15,100	$15,350	$15,600	$15,850	$16,100	$16,350
Class 4: Director, curriculum: dean, teachers college	12,700	12,950	13,200	13,450	13,700	13,950	14,200	14,450	14,700
Class 5:									
Group A, bachelor's degree	11,000	11,250	11,500	11,750	12,000	12,250	12,500	12,750	13,000
Group B, master's degree	11,500	11,750	12,000	12,250	12,500	12,750	13,000	13,250	13,500
Group C, master's degree plus 30 credit hours	11,700	11,950	12,200	12,450	12,700	12,950	13,200	13,450	13,700
Chief examiner.									
Director, food services.									
Director, industrial and adult education.									
Executive assistant to superintendent.									
Psychiatrist.									
Class 6:									
Group B, master's degree	11,050	11,300	11,550	11,800	12,050	12,300	12,550	12,800	13,050
Group C, master's degree plus 30 credit hours	11,250	11,500	11,750	12,000	12,250	12,500	12,750	13,000	13,250
Assistant to assistant superintendent (elementary schools).									
Assistant to assistant superintendent (junior and senior high schools).									
Assistant to assistant superintendent (general research, budget, and legislation).									
Assistant to assistant superintendent (pupil appraisal, study, and attendance).									
Director, elementary education (supervision and instruction).									
Director, health, physical education, athletics and safety.									
Executive assistant to deputy superintendent.									
Principal, elementary school.									
Principal, junior high school.									
Principal, senior high school.									
Principal, vocational high school.									
Principal, Americanization School.									
Principal, boys' junior-senior high school.									
Principal, Capitol Page School.									
Principal, health school.									
Principal, laboratory school.									
Principal, veterans high school.									
Class 7:									
Group B, master's degree	10,350	10,600	10,850	11,100	11,350	11,600	11,850	12,100	12,350
Group C, master's degree plus 30 credit hours	10,550	10,800	11,050	11,300	11,550	11,800	12,050	12,300	12,550
Director, elementary education (administration).									
Director in elementary education.									
Director, special education.									
Class 8:									
Group B, master's degree	9,850	10,100	10,350	10,600	10,850	11,100	11,350	11,600	11,850
Group C, master's degree plus 30 credit hours	10,050	10,300	10,550	10,800	11,050	11,300	11,550	11,800	12,050
Assistant principal, elementary school.									
Assistant principal, junior high school.									
Assistant principal, senior high school.									
Assistant principal, vocational high school.									
Assistant principal, Americanization School.									
Assistant principal, health school.									

Salary class and position	Service step 1 (minimum)	Service step 2	Service step 3	Service step 4	Service step 5	Service step 6	Service step 7	Service step 8	Service step 9
Class 8—Continued									
Group C—Continued									
Dean of students, teachers college.									
Director, school attendance.									
Professor, teachers college.									
Registrar, teachers college.									
Supervising director, adult education and summer school.									
Supervising director, athletics.									
Supervising director, curriculum.									
Supervising director, elementary education (supervision and instruction).									
Supervising director, reading clinic.									
Supervising director, subject field.									
Class 9:									
Group A, bachelor's degree	$8,940	$9,190	$9,440	$9,690	$9,940	$10,190	$10,440	$10,690	$10,940
Group B, master's degree	9,440	9,690	9,940	10,190	10,440	10,690	10,940	11,190	11,440
Group C, master's degree plus 30 credit hours	9,640	9,890	10,140	10,390	10,640	10,890	11,140	11,390	11,640
Assistant director, food services.									
Supervising director, audiovisual instruction.									
Class 10:									
Group B, master's degree	9,030	9,280	9,530	9,780	10,030	10,280	10,530	10,780	11,030
Group C, master's degree plus 30 credit hours	9,230	9,480	9,730	9,980	10,230	10,480	10,730	10,980	11,230
Assistant director, adult education and summer schools.									
Statistician.									
Class 11:									
Group B, master's degree	8,620	8,870	9,120	9,370	9,620	9,870	10,120	10,370	10,620
Group C, master's degree plus 30 credit hours	8,820	9,070	9,320	9,570	9,820	10,070	10,320	10,570	10,820
Assistant director, audiovisual.									
Assistant director, practical nursing.									
Assistant director, subject field.									
Associate professor, teachers college.									
Chief librarian, teachers college.									
Supervisor, elementary education.									
Class 12:									
Group B, master's degree	8,210	8,460	8,710	8,960	9,210	9,460	9,710	9,960	10,210
Group C, master's degree plus 30 credit hours	8,410	8,660	8,910	9,160	9,410	9,660	9,910	10,160	10,410
Chief attendance officer.									
Clinical psychologist.									
Class 13:									
Group B, master's degree	7,395	7,710	8,025	8,340	8,655	8,970	9,285	9,600	9,915
Group C, master's degree plus 30 credit hours	7,595	7,910	8,225	8,540	8,855	9,170	9,485	9,800	10,115
Assistant professor, teachers college.									
Psychiatric social worker.									
Assistant professor, laboratory school.									

Salary class and position	Service step 1	Service step 2	Service step 3	Service step 4	Service step 5	Service step 6	Service step 7
Class 14:							
Group A, bachelor's degree	$6,030	$6,285	$6,540	$6,795	$7,050	$7,305	$7,560
Group B, master's degree	6,530	6,785	7,040	7,295	7,550	7,805	8,060
Group C, master's degree plus 30 credit hours	6,730	6,985	7,240	7,495	7,750	8,005	8,260

Salary class and position	Service step 8	Service step 9	Service step 10	Service step 11	Service step 12	Service step 13
Class 14:						
Group A, bachelor's degree	$7,815	$8,070	$8,325	$8,580	$8,835	$9,090
Group B, master's degree	8,315	8,570	8,825	9,080	9,335	9,590
Group C, master's degree plus 30 credit hours	8,515	8,770	9,025	9,280	9,535	9,790

Salary class and position	Service step 1	Service step 2	Service step 3	Service step 4	Service step 5	Service step 6	Service step 7	Service step 8
Class 15:								
Group A, bachelor's degree	$5,000	$5,260	$5,520	$5,735	$5,950	$6,165	$6,380	$6,595
Group B, master's degree	5,500	5,760	6,020	6,235	6,450	6,665	6,880	7,095
Group C, master's degree plus 30 credit hours	5,700	5,960	6,220	6,435	6,650	6,865	7,080	7,295
Attendance officer.								
Census supervisor.								
School psychologist.								
Counselor, elementary and secondary schools.								
Instructor, teachers college.								
Instructor, laboratory school.								
Child labor inspector.								
Counselor, placement.								
Librarian, elementary and secondary schools.								
Librarian, teachers college.								
Research assistant.								
School social worker.								
Speech correctionist.								
Coordinator of practical nursing.								
Teacher, elementary and secondary schools.								

Salary class and position	Service step 9	Service step 10	Service step 11	Service step 12	Service step 13	Longevity step X	Longevity step Y
Class 15:							
Group A, bachelor's degree	$6,810	$7,025	$7,240	$7,455	$7,670	$8,190	$8,710
Group B, master's degree	7,310	7,525	7,740	7,955	8,170	8,690	9,210
Group C, master's degree plus 30 credit hours	7,510	7,725	7,940	8,155	8,370	8,890	9,410
Attendance officer.							
Census supervisor.							
School psychologist.							
Counselor, elementary and secondary schools.							
Instructor, teachers college.							
Instructor, laboratory school.							
Child labor inspector.							
Counselor, placement.							
Librarian, elementary and secondary schools.							
Librarian, teachers college.							
Research assistant.							
School social worker.							
Speech correctionist.							
Coordinator of practical nursing.							
Teacher, elementary and secondary schools.							

(Aug. 5, 1955, 69 Stat. 521, ch. 569, title I, § 1; July 25, 1958, 72 Stat. 414, Pub. L. 85–552, § 1; Aug. 28, 1958, 72 Stat. 1004, Pub. L. 85–838, § 1; Sept. 13, 1960, 74 Stat. 913, Pub. L. 87–773, § 1; Oct. 24, 1962, 76 Stat. 1229, Pub. L. 87–881, title I, § 101(1).)

AMENDMENTS

1962—Section 101(1) of act Oct. 24, 1962, amended the section by substituting new schedules as above set out.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

NOTES TO DECISIONS

1. Promotion of teachers without master's degrees

Teachers' Salary Act amendment, which in effect provided that incumbent teachers in senior high schools, who did not possess master's degrees, should be placed in same salary classification as those who had such degrees, included incumbent teachers of academic subjects in vocational high schools having only bachelor's degrees. *R. B. Thompson, Jr.* v. *Board of Education etc.* (1962, 299 F. 2d 920, 112 U.S. App. D.C. 89).

Teacher, who filed complaint seeking to be placed in higher salary bracket, slightly more than 60 days after being informed that his application to Board of Education for such relief had been denied, and that he had no further administrative relief, was not guilty of laches. *Id.*

Teachers' Salary Act provision that no senior high school teacher and no non-shop teacher in vocational high school should be appointed or promoted to any position specified unless he possessed master's degree, was applicable to new appointees only, and did not disturb status of teachers without master's degrees who had been placed on same salary basis as those with master's degrees by prior amendment. *Id.*

§ 31–1502. Repealed. Oct. 24, 1962, 76 Stat. 1235, Pub. L. 87–881, Title I, § 102.

Section of act Sept. 13, 1960, 74 Stat. 913, Pub. L. 86–773, § 2 granted a salary increase of 7.5 per centum.

Effective date of repeal is January 1, 1963.

SUBCHAPTER II.—CLASSIFICATION AND ASSIGNMENT OF EMPLOYEES

§ 31–1511. Board of Education to establish eligibility requirements—Methods of appointment, promotion and salary classification—Definitions.

(a) The Board of Education on written recommendation of the Superintendent of Schools is authorized to establish the eligibility requirements and prescribe methods of appointment and promotion for teachers, school officers, and other employees. The Board of Education is authorized and directed on written recommendation of the Superintendent of Schools, to classify and assign all teachers, school officers, and other employees to the salary classes and groups in section 31–1501. Teachers, school officers, and other employees on probationary or permanent status shall not be required to take any examinations, either mental or physical, to be continued in the positions in which they are employed on December 31, 1962, or to which they may be transferred and assigned under the provisions of section 31–1521 and section 31–1522. No teacher, school officer, or other employee shall be appointed or promoted to any position in section 31–1501 on probationary or permanent status unless he possesses a master's degree, except that a person possessing a bachelor's degree may be appointed on probationary or permanent status as Director of Food Services, Assistant Director of Food Services, Supervising Director of Military Science and Tactics, teacher of military science and tactics, teacher of driver training, shop teacher in the vocational education program, teacher in the junior high school, teacher in the elementary schools, research assistant, attendance officer, child labor inspector, or census supervisor, and a person not possessing a bachelor's degree may be appointed on probationary or permanent status as shop teacher in the vocational education program if he submits acceptable evidence of equivalent training and experience in accordance with the rules of the Board. No teacher, school officer, or other employee shall receive compensation at a rate less than his annual compensation as of December 31, 1962, and except that a person not possessing a master's degree who was appointed on probationary or permanent status before January 1, 1963, to a position as a nonshop teacher in a vocational education program, or counselor in the vocational high schools, or counselor in the junior high schools may continue to be employed in such a position, and except that a person not possessing a master's degree who was on the list of eligible candidates for any such position before January 1, 1963, may continue to be eligible for such position until the expiration of such eligible list. No teacher, school officer, or other employee shall receive compensation at a rate less than his annual compensation as of December 31, 1962. (Aug. 5, 1955, 69 Stat. 523, ch. 569, title II, § 2; Aug. 28, 1958, 72 Stat. 1007,

Pub. L. 85–838, § 1; Oct. 24, 1962, 76 Stat. 1231, Pub. L. 87–881, title I, § 101(2).)

AMENDMENTS

1962—Section 101(2) of act Oct. 24, 1962, made the following amendments to the section: In subsection (a) third sentence, struck out "December 31, 1957" and inserted "December 31, 1962". In the fourth sentence struck out the words "counselor in the vocational high schools, counselor in the junior high schools" and the words, "school social worker," and at the end of the sentence by inserting before the period, and following the word "Board" the matter beginning with "and except" and continuing to end of that sentence. In the fifth sentence it struck out "December 31, 1957" and inserted "December 31, 1962".

Section 101(3) of the same act amended subsection (b) by striking the figure "18" wherever same appeared in subsection (b) and changed to "15".

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending section 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

NOTES TO DECISIONS

1. Promotion of teachers without master's degrees

Teachers' Salary Act amendment, which in effect provided that incumbent teachers in senior high schools, who did not possess master's degrees, should be placed in same salary classification as those who had such degrees, included incumbent teachers of academic subjects in vocational high schools having only bachelor's degrees. *R. B. Thompson, Jr.* v. *Board of Education etc.* (1962, 299 F. 2d 920, 112 U.S. App. D.C. 89).

Teacher, who filed complaint seeking to be placed in higher salary bracket, slightly more than 60 days after being informed that his application to Board of Education for such relief had been denied, and that he had no further administrative relief, was not guilty of laches. *Id.*

Teachers' Salary Act provision that no senior high school teacher and no non-shop teacher in vocational high school should be appointed or promoted to any position specified unless he possessed master's degree, was applicable to new appointees only, and did not disturb status of teachers without master's degrees who had been placed on same salary basis as those with master's degrees by prior amendment. *Id.*

SUBCHAPTER III.—METHOD OF ASSIGNMENT OF EMPLOYEES TO SALARY SCHEDULES

§ 31–1521. Rules for assignment to salary classes—Comparative tables.

Each teacher, school officer, or other employee in the service of the Board on January 1, 1963, who occupies a position held by him on December 31, 1962, under the provisions of this chapter, shall be placed in a salary class covered by section 35–1501 as indicated at the end of this section. Any employee in group A, B, or C of his salary class on December 31, 1962, shall be assigned to the same letter group of the salary class to which he is transferred on January 1, 1963.

TITLE AND CLASS OF POSITION ON DECEMBER 31, 1962

Title	*Class*
Superintendent	1
Deputy superintendent	2
Assistant superintendent	3
Assistant superintendent in charge of business affairs	3
President, District of Columbia Teachers College	3
Dean, District of Columbia Teachers College	4
Chief examiner	5
Dean of students, teachers college	5
Executive assistant to the superintendent	5
Psychiatrist	5
Director, food services	5
Executive assistant to the deputy superintendent	6
Assistant to the assistant superintendent (elementary schools)	6
Director, curriculum	4
Director, elementary education (administration)	7
Director, elementary education (supervision and instruction)	6
Director in elementary education	7
Director, health, physical education, athletics and safety	6
Director, industrial and adult education	5
Director, special education	7
Principal, senior high school	6
Principal, vocational high school	6
Principal, junior high school	7
Registrar, teachers college	7
Principal, Americanization School	7
Principal, junior high school	7
Professor, District of Columbia Teachers College	8
Supervising director, adult education and summer schools	8
Supervising director, athletics	8
Supervising director, curriculum	8
Supervising director, elementary education (supervision and instruction)	8
Assistant to the assistant superintendent (general research, budget and legislation)	8
Assistant to the assistant superintendent (junior and senior high schools)	7
Assistant to the assistant superintendent (pupil appraisal, study and attendance)	8
Supervising director, reading clinic	8
Supervising director, subject field	8
Director, school attendance	8
Supervising director, audio-visual instruction	9
Principal, elementary school	8
Principal, Capitol Page School	8
Principal, health school	7
Principal, laboratory school	7
Assistant principal, senior high school	8
Assistant principal, vocational high school	8
Assistant director, food services	9
Assistant principal, junior high school	9
Assistant principal, Americanization School	9
Associate professor, District of Columbia Teachers College	13
Assistant principal, elementary school	11
Assistant principal, health school	14
Assistant director, audio-visual instruction	13

TITLE AND CLASS OF POSITION ON JANUARY 1, 1963

Title	*Class*
Superintendent	1
Deputy superintendent	2
Assistant superintendent	3
Assistant superintendent in charge of business affairs	3
President, District of Columbia Teachers College	3
Dean, District of Columbia Teachers College	4
Chief examiner	5
Dean of students, District of Columbia Teachers College	8
Executive assistant to the superintendent	5
Psychiatrist	5
Director, food services	5
Executive assistant to the deputy superintendent	6
Assistant to the assistant superintendent (elementary schools)	6
Director, curriculum	4
Director, elementary education (administration)	7
Director, elementary education (supervision and instruction)	6
Director in elementary education	7
Director, health, physical education, athletics and safety	6
Director, industrial and adult education	5
Director, special education	7
Principal, senior high school	6
Principal, vocational high school	6
Principal, boys' junior-senior high school	6
Registrar, District of Columbia Teachers College	8
Principal, Americanization School	6
Principal, junior high school	6
Professor, District of Columbia Teachers College	8
Supervising director, adult education and summer schools	8
Supervising director, athletics	8
Supervising director, curriculum	8
Supervising director, elementary education (supervision and instruction)	8
Assistant to the assistant and superintendent (general research, budget, and legislation	6
Assistant to the assistant superintendent (junior and senior high schools)	6
Assistant to the assistant superintendent, (pupil appraisal, study and attendance)	6
Supervising director, reading clinic	8
Supervising director, subject field	8
Director, school attendance	8
Supervising director, audio-visual instruction	9
Principal, elementary school	6
Principal, Capitol Page School	8
Principal, health school	6
Principal, laboratory school	6
Assistant principal, senior high school	8
Assistant principal, vocational high school	8
Assistant director, food services	9
Assistant principal, junior high school	8
Assistant principal, Americanization School	8
Associate professor, District of Columbia Teachers College	11
Assistant principal, elementary school	8
Assistant principal, health school	8
Assistant director, audio-visual instruction	11

Title and Class of Position on December 31, 1962	
Title	*Class*
Assistant director, evening and summer schools	11
Principal, veterans high school	8
Assistant director, practical nursing	13
Assistant director, subject field	13
Statistician	11
Assistant professor, District of Columbia Teachers College	16
Assistant professor, laboratory school	16
Chief attendance officer	15
Chief librarian, District of Columbia Teachers College	13
Clinical psychologist	15
Supervisor, elementary education	13
Psychiatric social worker	16
Attendance officer	18
Census supervisor	18
Child labor inspector	18
Coordinator, practical nursing	18
Counselor, elementary and secondary schools	18
Counselor, placement	18
Instructor, District of Columbia Teachers College	18
Instructor, laboratory schools	18
Librarian, elementary and secondary schools	18
Librarian	18
Research assistant	18
School psychologist	18
School social worker	18
Speech correctionist, District of Columbia Teachers College	18
Teacher, elementary and secondary schools	18

Title and Class of Position on January 1, 1963	
Title	*Class*
Assistant director, evening and summer schools	10
Principal, veterans high school	6
Assistant director, practical nursing	11
Assistant director, subject field	11
Statistician	10
Assistant professor, District of Columbia Teachers College	13
Assistant professor, laboratory school	16
Chief attendance officer	12
Chief librarian, District of Columbia Teachers College	11
Clinical psychologist	12
Supervisor, elementary education	11
Psychiatric social worker	13
Attendance officer	15
Census supervisor	15
Child labor inspector	15
Coordinator, practical nursing	15
Counselor, elementary and secondary schools	15
Counselor, placement	15
Instructor, District of Columbia Teachers College	15
Instructor, laboratory schools	15
Librarian, elementary and secondary schools	15
Librarian	15
Research assistant	15
School psychologist	15
School social worker	15
Speech correctionist, District of Columbia Teachers College	15
Teacher, elementary and secondary schools	15

(Aug. 5, 1955, 69 Stat. 524, ch. 569, title III, § 1; Aug. 28, 1958, 72 Stat. 1007, Pub. L. 85–838, § 1; Oct. 24, 1962, 76 Stat. 1232, Pub. L. 87–881, title I, § 101(4).)

AMENDMENTS

1962—Section 101 (4) of act Oct. 24, 1962, amended the section by changing "1958" to "1963", "1957" to "1962" in the first sentence; by changing "1957" to "1962," "1958" to "1963" in the second sentence and by eliminating the balance of the sentence beginning with the word "except"; and by eliminating the last sentence in the section. It also amended the section by substituting new comparative tables as above set out.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

SUBCHAPTER IV.—METHOD OF ADVANCEMENT AND PROMOTION OF EMPLOYEES

§ 31–1531. Method of assignment to service steps—Promotion of employees.

(a) On January 1, 1963, each permanent employee assigned to salary classes 2 through 15 in accordance with section 31–1501 and section 31–1521 shall be assigned to the same numerical service step on the schedule for his salary class, or salary class and group, under this chapter as he occupied on December 31, 1962, except that employees assigned to salary class 15 on January 1, 1963, who on December 31, 1962, were on service step 13 shall be assigned to service steps for their respective groups as follows: An employee who on January 1, 1963, has completed fifteen years of creditable service but less than eighteen years shall be assigned to longevity step X, and an employee who on January 1, 1963, has completed eighteen years of creditable service shall be assigned to longevity step Y. In determining years of creditable service for placement on service steps, credit shall be given for previous service in accordance with the provisions of this chapter governing the placement of employees who are newly appointed, reappointed, or reassigned or who are brought under this chapter in accordance with the provisions of section 31–1522.

(b) As soon as such reevaluation is completed for all employees involved, each such employee shall be assigned to the numerical service step for his salary class, or class and group, under this chapter next above the step corresponding to the number of his years of creditable service rendered prior to July 1, 1958, as determined by such re-evaluation, but no employee shall receive a salary above the top step for his class, or class and group, or below the step already occupied by him. If such re-evaluation places the employee on a higher numerical service step than the one already occupied by him, he shall receive the full annual salary at the higher step for the year beginning July 1, 1958. Beginning on July 1, 1959, each permanent employee who has not yet reached the highest service step for his salary class, or class and group, under this chapter shall advance one such step each year until he reaches the highest step for his class, or class and group, except that each employee in salary class 15 shall advance from service step 13 to longevity step X on July 1 following the completion of fifteen years of creditable service; from longevity step X to longevity step Y on July 1 following the completion of eighteen years of creditable service: *Provided,* That beginning with the step increase normally due July 1, 1963, the Board of Education, on the written recommendation of the Superintendent of Schools, is authorized to deny any such salary advancement for the year immediately following any year in which the employee fails to receive a performance rating of 'satisfactory' from his superior officer. (Aug. 5, 1955, 69 Stat. 526, ch. 569, title IV, § 6; Aug. 28, 1958, 72 Stat. 1009, Pub. L. 85–838, § 1; Oct. 24, 1962, 76 Stat. 1233, Pub. L. 87–881, title I, § 101 (5) (6).)

AMENDMENTS

1962—Section 101(5) of act Oct. 29, 1962, amended subsection (a) to read as above set out. For comparison see subsection (a) in main volume of the Code. Subsection (b) was amended, by section 101(6) of the same act, by striking the period at the end thereof and inserting the matter following the word "group" beginning with word "except" to the end of the paragraph.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

§ 31–1532. Assignment of new employees to service steps—Evaluation of past experience—Absence because of military or naval service.

(a) Each employee who is newly appointed or reappointed to a position under section 31–1501, except the Superintendent of Schools, shall be assigned to the service step numbered next above the number of years of service with which he is

credited for the purpose of salary placement. The Board, on the written recommendation of the Superintendent of Schools, is authorized to evaluate the previous experience of each such employee to determine the number of years with which he may be so credited. Employees newly appointed, reappointed, or reassigned to any position in salary class 15 shall receive one year of such placement credit for each year of satisfactory service, not in excess of five years, in the same type of position regardless of school level, in an educational system or institution of recognized standing outside the District of Columbia public schools, as determined by the Board: *Provided,* That employees appointed to the positions of attendance officer, census supervisor, child labor inspector, counselor, librarian, research assistant, school psychologist, and school social worker shall also receive one year of placement credit for each year of satisfactory service in a teaching position, but not in excess of five years for all types of service rendered outside the school system, and persons appointed to the position of shop teacher in the vocational education program shall receive one year of placement credit for each year of approved experience in the trades, as determined by the Board, but not in excess of five years for any combination of trade experience and educational service outside the school system. Employees newly appointed or reappointed to positions of assistant professor (salary class 13), chief librarian and associate professor (salary class 11), and professor (salary class 8) shall receive one year of placement credit for each year of satisfactory service, not in excess of five years, in a position of the same or higher rank in a college or university of recognized standing outside the District of Columbia public schools, as determined by the Board. Employees newly appointed, reappointed, or reassigned to any position in salary classes 1 to 14 inclusive, except the positions of chief librarian and assistant professor, associate professor and professor, shall receive no placement credit for educational service or trade experience outside the District of Columbia public schools. Employees reappointed or reassigned to positions in classes 2 to 15 inclusive shall receive one year of placement credit for each year of satisfactory service in the same salary class or in a position of equivalent or higher rank within the District of Columbia public schools, except that no employee shall receive more than five years of placement credit for previous service in any combination of the following: (1) service rendered outside the public school system, (2) service rendered as a temporary employee within such system, and (3) service rendered prior to reappointment after resignation from such system. Credit for service rendered either inside or outside the District of Columbia public schools shall be effective on the date of the regular Board meeting immediately preceding the date of approval by the Board or on the date of appointment, whichever is later.

* * * * *

(Aug. 5, 1955, 69 Stat. 527, ch. 569, title IV, § 7; Aug. 28, 1958, 72 Stat. 1010, Pub. L. 85–838, § 1; Oct. 24, 1962, 76 Stat. 1234, Pub. L. 87–881, title I, § 101 (7).)

AMENDMENTS

1962—Section 101 (7) of act Oct. 24, 1962, amended subsection (a) by striking the figure "18" in two places and changing it to "15"; by striking the figure "17" and changing it to "14", and by striking out the fourth sentence and substituting a new fourth sentence as above set out for comparison of same sentence see main volume of the Code.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1052] of this title shall take effect as of January 1, 1963."

§ 31–1533. Salary increases of probationary employees—Termination of employment.

(a) Each teacher, school officer, and other employee appointed or promoted on probationary tenure to a position covered by section 31–1501 shall receive his first increase in salary in that position on the beginning day of his second year of probationary service in the position; he shall receive his second increase in salary in that position on the date when his appointment or promotion to the position is made permanent; and he shall receive all subsequent increases in salary to which he is entitled in that position on July 1 of each year, beginning with the July 1 next after the date of his permanent appointment or promotion to the position in accordance with section 31–1531 and section 31–1532, except that beginning with any such step increase normally due subsequent to June 30, 1963, the Board of Education, on written recommendation of the Superintendent of Schools, is authorized to deny any such increase in salary for the year immediately following any year in which the employee fails to receive a performance rating of "satisfactory" from his superior officer.

* * * * *

(Aug. 5, 1955, 69 Stat. 528, ch. 569, title IV, § 8; Oct. 24, 1962, 76 Stat. 1234, Pub. L. 87–881, title I, § 101(8).)

AMENDMENTS

1962—Section 101(8) of act Oct. 24, 1962, amended subsection (a) by striking the period at the end of the section and adding thereto the matter beginning with the word "except" and ending with the word "Board".

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

§ 31–1536. Promotions—Assignment to numerical service step.

Any employee in a salary class covered by section 31–1501, when promoted to a higher-paid salary class, shall be assigned to the lowest numerical service step on the schedule for his new class, or class and group, which will give him an immediate increase in annual salary rate at least equal to the sum of the following:

(1) Any annual service increment or longevity increment to which the employee would have been entitled in his former salary class at the time of his promotion; and

(2) The annual service increment scheduled for his new class and group: *Provided,* That no such

employee shall be assigned to a higher numerical service step on the schedule for his new class, or class group, than he would have occupied on the schedule from which promoted. (Aug. 5, 1955, 69 Stat. 528, ch. 569, title IV, § 11, eff. July 1, 1955; Oct. 24, 1962, 76 Stat. 1234, Pub. L. 87–881, title I, § 101(11).)

AMENDMENTS

1962—Section 101(9) of act Oct. 24, 1962, amended clause (1) by inserting after the word "increment" the words "or longevity increment."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

SUBCHAPTER V.—ACCOMPANYING LEGISLATION

§ 31–1542. Evening, summer, and Americanization schools—Salaries.

(a) The Board is hereby authorized to conduct as parts of the public school system, summer schools, evening schools, and an Americanization School, under and within appropriations made by Congress. The pay rates for teachers, officers, and other educational employees in the summer and evening schools shall be as follows:

Classification	Step 1	Step 2	Step 3
	Per Diem		
SUMMER SCHOOL (REGULAR)			
Teacher, elementary and secondary schools, and instructor, District of Columbia Teachers College	$19.72	$21.69	$23.66
Assistant professor, District of Columbia Teachers College	22.68	24.94	27.21
Associate professor, District of Columbia Teachers College	25.64	28.20	30.76
Assistant principal, elementary and secondary schools	28.59	31.45	34.31
Supervising director, and professor District of ColumbiazTeachers College	28.59	31.45	34.31
Principal, elementary and secondary schools	31.55	34.70	37.86
	Per Diem		
VETERANS' SUMMER HIGH SCHOOL CENTERS			
Teacher	$29.58	$32.54	$35.49
	Per Period		
EVENING SCHOOLS			
Teacher	$5.04	$5.39	$5.79
Assistant principal	6.98	7.68	8.40
Principal	7.71	8.48	9.25

(Aug. 5, 1955, 69 Stat. 529, ch. 569, title V, § 13; Aug. 28, 1958, 72 Stat. 1011, Pub. L. 85–838, § 1; Oct. 24, 1962, 76 Stat. 1234, Pub. L. 87–881, title I, § 101(10)(11).)

AMENDMENTS

1962—Section 101(10) of act Oct. 24, 1962, amended subsection (a) by striking the classification and pay rates tables and inserting new tables as above set out.

Section 101(11) amended subsection (b) by striking "January 1, 1958" and inserting "January 1, 1963".

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

§ 31–1543. Classification of certain employees as teachers.

Each employee assigned to salary class 15 in the schedule provided in section 31–1501, each assistant professor in salary class 13, each associate professor and chief librarian in salary class 11 and each professor in salary class 8 shall be classified as a teacher for payroll purposes and his annual salary shall be paid in ten monthly installments in accordance with existing law. (Aug. 5, 1955, 69 Stat. 529, ch. 569, title V, § 14; Aug. 28, 1958, 72 Stat. 1011, Pub. L. 85–838, § 1; Oct. 24, 1962, 76 Stat. 1235, Pub. L. 87–881, title I, § 101(12).)

AMENDMENTS

1962—Section 101(12) of act Oct. 24, 1962, amended section to read as above set out. For comparison of section before this amendment see main volume of Code.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

§ 31–1544. Authority of Board to regulate vacation period and annual leave applicable to certain employees.

On and after January 1, 1963, sections 31–698 and 31–698a shall apply to employees of the Board of Education whose salaries are fixed in salary classes 6 through 14, inclusive, under this chapter, except the following: Executive assistant to deputy superintendent and assistants to assistant superintendents in salary class 6; dean of students, District of Columbia Teachers College, professor, District of Columbia Teachers College, director, school attendance, and registrar, District of Columbia Teachers College, in salary class 8; assistant director, department of food services, in salary class 9; statistician, in salary class 10; associate professor, District of Columbia Teachers College, and chief librarian, District of Columbia Teachers College, in salary class 11; and assistant professor, District of Columbia Teachers College, in salary class 13. (Aug. 5, 1955, 69 Stat. 529, ch. 569, title V, § 15, Aug. 28, 1958, 72 Stat. 1012, Pub. L. 85–838, § 1; Oct. 24, 1962, 76 Stat. 1235, Pub. L. 87–881, title I; § 101(13).)

AMENDMENTS

1962—Section 101(13) of act Oct. 24, 1962, amended section to read as above set out. For comparison of section before this amendment see main volume of Code.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

§ 31–1545. Sick and emergency leave provisions applicable to certain employees.

On and after January 1, 1963, sections 31–691, 31–692 to 31–694, 31–695, 31–696, 31–697 shall apply to employees of the Board whose salaries are fixed in salary class 15, and to the following employees in the salary classes indicated: Professor, class 8; associate professor, class 11; assistant professor, salary class 13; and chief librarian, salary class 11,

under this chapter. (Aug. 5, 1955, 69 Stat. 529, ch. 569, title V, § 16; Aug. 28, 1958, 72 Stat. 1012, Pub. L. 85–838, § 1; Oct. 24, 1962, 76 Stat. 1235, Pub. L. 87–881, title I, § 101(14).)

AMENDMENTS

1962—Section 101(14) amended section by striking "1958" and inserting "1963"; by striking "18" and changing to "15"; by striking "chief librarian and assistant professor, salary class 14" and inserting in lieu thereof "assistant professor, salary class 13; and chief librarian salary class 11."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31–1501, 31–1511, 31–1521, 31–1531, 31–1532, 31–1533, 31–1536, 31–1542, 31–1543, 31–1544 and 31–1545] and 102 [repealing section 31–1502] of this title shall take effect as of January 1, 1963."

TITLE 32.—ELEEMOSYNARY, CURATIVE, CORRECTIONAL AND PENAL INSTITUTIONS

Chapter 3.—HOSPITALS AND ASYLUMS—GENERAL PROVISIONS

§§ 32–317, 32–318, 32–319, 32–320. Omitted.

CODIFICATION

These sections dealing with Freedmen's Hospital, are omitted by reason of the provisions of act Sept. 21, 1961, 75 Stat. 542, Pub. L. 87–267 (hereinafter set out in full) transferring the hospital to Howard University. Section 7 of the act repeals all laws specifically applicable to Freedmen's Hospital, effective with the transfer of the Hospital pursuant to section 1 of the act.

ACT SEPT. 21, 1961, TRANSFERRING FREEDMEN'S HOSPITAL TO HOWARD UNIVERSITY

TRANSFER OF FREEDMEN'S HOSPITAL

SECTION 1. (a) For the purpose of assisting in the provision of teaching hospital resources for Howard University, thereby assisting the university in the training of medical and allied personnel and in providing hospital services for the community, the Secretary of Health, Education, and Welfare shall, pursuant to agreement with the board of trustees of Howard University, transfer to Howard University, without reimbursement, all right, title, and interest of the United States in certain lands in the District of Columbia, together with the buildings and improvements thereon, and the personal property used in connection therewith (as determined by the Secretary), commonly known as Freedmen's Hospital.

(b) It is the intent of Congress (1) that the transfer of Freedmen's Hospital to Howard University be effected as soon as practicable, (2) to assure the well-being of patients at Freedmen's Hospital during the period of transition, and (3) that the transfer be effected with minimum dislocation of the present hospital staff and maximum consideration of their interests as employees.

(c) The Secretary of Health, Education, and Welfare shall report to the Congress the terms of the agreement for such transfer.

PROVISION FOR EMPLOYEES OF HOSPITAL

SEC. 2. (a) The agreement for transfer of Freedmen's Hospital referred to in section 1 shall include provisions to assure that—

(1) all individuals who are career or career-conditional employees of the hospital on the day preceding the effective date of the transfer of the hospital, except those in positions with respect to which they have been notified not less than six months prior to the effective date of such transfer that their positions are to be abolished, will be offered an opportunity to transfer to Howard University;

(2) Howard University—

(A) will not reduce the salary levels for such employees who transfer,

(B) will deposit currently (i) in the civil service retirement and disability fund created by the Act of May 22, 1920, the employee deductions and agency contributions required by the Civil Service Retirement Act, and (ii), in the fund created by section 5(c) of the Federal Employees' Group Life Insurance Act of 1954 the employee deductions and agency contributions required by the Federal Employees' Group Life Insurance Act of 1954,

(C) will provide other benefits for such employees as nearly equivalent as may be practicable to those generally applicable, on the effective date of the transfer of the hospital, to civilian employees of the United States, and

(D) in determining the seniority rights of its employees, Howard University will credit service with Freedmen's Hospital performed by such employees who transfer, on the same basis as it would credit such service had it been performed for such University;

(3) the transfer will become effective not later than the beginning of the second month which begins after construction of the new hospital facilities authorized by section 3 is commenced.

(b) The Department of Health, Education, and Welfare shall make every reasonable effort to place in other comparable Federal positions all individuals who are career or career-conditional employees of Freedmen's Hospital on the date of enactment of this Act and who do not transfer to Howard University.

(c) Each individual who is an employee of Freedmen's Hospital on the date of enactment of this Act and who transfers to Howard University shall, so long as he is continuously in the employ of Howard University, be regarded as continuing in the employ of the United States for the purposes of the Civil Service Retirement Act, the Federal Employees' Group Life Insurance Act of 1954. For purposes of section 3121(b) of the Internal Revenue Code of 1954 and section 210 of the Social Security Act, service performed by such individual during the period of his employment at Howard University shall be regarded as though performed in the employ of the United States.

AUTHORIZATION OF CONSTRUCTION OF HOSPITAL FACILITIES

SEC. 3. For the purpose specified in section 1, there are hereby authorized to be appropriated such sums as may be necessary for the construction of a building or buildings and facilities, including equipment, and for remodeling of existing buildings (including repair and replacement of equipment) which are to be combined with the building or buildings and facilities so constructed, to provide a hospital with a capacity of not to exceed five hundred beds.

CONTINUED OPERATION OF FACILITIES

SEC. 4. If, within twenty years after the completion of construction (as determined by the Secretary of Health, Education, and Welfare) of the new hospital facilities authorized by section 3, any of such facilities, or of the facilities transferred pursuant to section 1 and combined with such new facilities, are transferred by Howard University to any other person or entity (except a transfer to the United States) or cease to be operated by the university as teaching hospital facilities, the United States shall be entitled to recover from the transferee or the university, in the case of a transfer, or from the university, if there is no transfer, an amount equal to the then value of such facilities (or so much thereof as is involved in the transfer, as the case may be), such value to be determined by agreement of the parties or by action brought in the United States District Court for the District of Columbia.

AUTHORIZATION OF APPROPRIATIONS FOR OPERATION

SEC. 5. In order to facilitate operation of teaching hospital facilities at Howard University, there are authorized to be appropriated annually to the university such sums as the Congress may determine, for the partial support of the operation of such facilities giving consideration to the cost imposed by the provisions of section 2 and the portion of the agreement under this Act relating to such provisions. The cost of operating such facilities, the appropriations pursuant to this section, and any other income derived from such operation or available for such purpose shall be identified and accounted for separately in the accounts of the university.

FINANCIAL POLICY

SEC. 6. It is hereby declared to be the policy of the Congress that, to the extent consistent with good medical teaching practice, the Howard University Hospital facilities shall become progressively more self-supporting. In order to further this policy, the President shall submit to the Congress a report, based on a study of the financing of the operation of the hospital, containing his recommendations on the rate at which, consistent with the above policy, Federal financial participation in such cost of operation shall be reduced. Such report shall be submitted not later than the end of the second calendar year following the year in which the construction of the new hospital facilities, authorized by section 3, is completed.

REPEAL OF LAWS

SEC. 7. All laws heretofore applicable specifically to Freedmen's Hospital are, to the extent of such applicability, repealed, effective with the transfer of Freedmen's Hospital pursuant to section 1.

TRANSFER OF FUNDS

SEC. 8. All unexpended balances of appropriations, allocations, and other funds, available or to be made available, of Freedmen's Hospital are, effective with the transfer of Freedmen's Hospital pursuant to section 1, transferred to Howard University for use in the operation of the Howard University Hospital facilities, except to the extent (determined by the Director of the Bureau of the Budget) required to meet obligations already incurred and not assumed by the university.

(Sept. 21, 1961, 75 Stat. 542, Pub. L. 87–267, §§ 1—8.)

Chapter 4.—SAINT ELIZABETHS HOSPITAL

§ 32–404. Reimbursements on account of expenditures for care of insane to be credited to the District of Columbia.

NOTES TO DECISIONS

1. District not a voluntary creditor

District of Columbia was entitled to reimbursement for expenses of treatment of incompetent veteran from committee of the veteran from date of her appointment until the veteran was transferred to the rolls of the Veterans Administration which now bears the costs involved, since the District was not a voluntary "creditor" within the statute exempting from claims of "creditors" payments of benefits due or to become due under any law administered by the Veterans Administration. *T. Savoid, Committee etc.* v. *District of Columbia* (1961, 288 F. 2d 851, 110 U.S. App. D.C. 39).

§ 32–417f. Persons entitled to care in a Veterans' Administration facility.

NOTES TO DECISIONS

1. District not a voluntary creditor

District of Columbia was entitled to reimbursement for expenses of treatment of incompetent veteran from committee of the veteran from date of her appointment until the veteran was transferred to the rolls of the Veterans Administration which now bears the costs involved, since the District was not a voluntary "creditor" within the statute exempting from claims of "creditors" payments of benefits due or to become due under any law administered by the Veterans Administration. *T. Savoid, Committee etc.* v. *District of Columbia* (1961, 288 F. 2d 851, 110 U.S. App. D.C. 39).

Chapter 7A.—AID TO DEPENDENT CHILDREN

§§ 32–751 to 32–765. Repealed. Oct. 15, 1962, 76 Stat. 919, Pub. L. 87–807, § 24.

Sections of act June 14, 1944, 58 Stat. 277, ch. 257, §§ 1—18, related to aid to dependent children under eighteen years of age. It defined a dependent child as one who has been deprived of parental support by reason of death, continued absence from the home, or physical or mental incapacity of a parent. The sections defined the eligibility of a child for aid, provided for administration of the sections by the Board of Public Welfare, investigation by said Board and determination of amount and starting date of assistance, review of the Board's action, provided for cooperation between the Board and Social Security Board of the United States, and prescribed penalties for procuring assistance by fraud, and contained other implementing provisions. Subject matter is now covered by title 3, chapter 2.

EFFECTIVE DATE

See note to sections 3–201 and 3–204.

SAVINGS PROVISIONS

Section 24, act Oct. 15, 1962, provided in part as follows: "Notwithstanding such repeal, all claims of the District of Columbia for recovery of amounts expended for aid or assistance granted under such repealed Acts [32–751 to 32–756] which it now has, or which would have accrued had such Acts not been repealed, shall be recoverable in the same manner and to the same extent as such amounts would be recoverable had such aid or assistance been granted under the provisions of this Act" [Title 3, ch. 2].

TITLE 33.—FOOD AND DRUGS

Chapter 1.—ADULTERATION

§ 33–111. Special services for detection of adulteration.

SIMILAR PROVISIONS

Oct. 23, 1962, 76 Stat. 1155, Pub. L. 87–867, § 15.

CONTINUATION OF ACT APR. 8, 1960

Section continued by provisions of section 15 of act Sept. 21, 1961, 75 Stat. 564, Pub. L. 87–265. See note to section 9–501.

Chapter 4.—NARCOTIC DRUGS

§ 33–414. Search warrants — Requirements — Form — Contents—Return—Penalty for interfering with service.

NOTES TO DECISIONS

Evidence .50
Execution of search warrant .51
Search and seizure 1
Sentences 1.50

.50. Evidence

Evidence supported finding of intent necessary for convictions of petit larceny of meperidine and unlawful possession of meperidine and biphetamine. *D. A. Fisher* v. *United States* (D.C. Mun. App. 1962, 183 A. 2d 553).

.51. Execution of search warrant

Search warrant was properly executed, though police allegedly tricked defendant by allowing defendant to think that only janitor was at door of apartment, where door was opened three or four inches by defendant, and one of the officers thrust his badge and search warrant through aperture and stated that he had a search warrant, and when defendant started to run, the officer pulled door open, and night chain slipped off, and that officer then entered and placed defendant under arrest. *C. Jones* v. *United States* (1962, 304 F. 2d 381, — U.S. App. D.C. —).

1. Search and seizure

Defendant's cooperation, before arrest, with police was voluntary where he did not deny involvement of disappearance of meperidine and biphetamine but gave purported explanation thereof, voluntarily told police officer that packages in his automobile trunk were from employer, and repeated such statements to employer in officer's presence. *D. A. Fisher* v. *United States* (D.C. Mun. App. 1962, 183 A. 2d 553).

1.50. Sentences

Defendant's assignment of error relating to sentences imposed for conviction of petit larceny and unlawful possession of meperidine would not be considered, where such sentences were each less than sentence imposed for conviction of unlawful possession of biphetamine, and the conviction involving biphetamine was valid. *D. A. Fisher* v. *United States* (D.C. Mun. App. 1962, 183 A. 2d 553).

Chapter 7.—REGULATIONS AND CONTROL OF CERTAIN DRUGS OTHER THAN NARCOTICS

§ 33–710. Arrest without warrant.

NOTES TO DECISIONS

1. Arrest without warrant

Defendant was not under arrest on day he was informed of conduct of investigation, was questioned for five minutes in his employer's presence, and went voluntarily to police headquarters to take polygraph test, nor on following day, when he returned to take test and, almost immediately after it, took police officer to automobile and gave him package containing employer's drug. *D. A. Fisher* v. *United States* (D.C. Mun. App. 1962, 183 A. 2d 553).

TITLE 35.—INSURANCE

Chapter 1.—INSURANCE DEPARTMENT—GENERAL PROVISIONS

§ 35–102. Duties of Superintendent—Copy of charters to be filed—Foreign companies to file power of attorney—Service of process—Superintendent to make rules and regulations.

NOTES TO DECISIONS

1.50. Engaging in insurance

Statutes regulating business of insurance were not intended for application to all organizations having some element of risk assumption or distribution in their operations. *Metropolitan Police Retiring Ass'n Inc.* v. *W. N. Tobriner et al.* (1962, 306 F. 2d 775. — U.S. App. D.C. —).

The legislation relating to insurance in District of Columbia is so elaborate that court is not inclined to strain its coverage to include an activity left uncovered by the ordinary meaning of language used. *Id.*

The absence of a profit motive and facts that Metropolitan Police Retiring Association possesses a representative government and engages in no solicitation of the public, add some though not controlling support to review that its activities are not within scope of statute primarily designed to protect insured vis-a-vis the insurer. *Id.*

Where Metropolitan Police Retiring Association was incorporated as a charitable organization, membership was limited to members of Metropolitan Police Department, the White House Police, and Park Police, purpose of association was to furnish financial relief to members in case of their retirement from police force, payments upon retirement were principally the amounts of retirees' own contributions with some increment of interest from investments which were required to be approved by majority of board of directors and by majority vote of membership in regular session, association was not engaged in "insurance" and hence was not required to obtain certificate of authority from Superintendent of Insurance. *Id.*

§ 35–105. Statement of business in District of Columbia.

NOTES TO DECISIONS

1.50. Engaging in insurance

Statutes regulating business of insurance were not intended for application to all organizations having some element of risk assumption or distribution in their operations. *Metropolitan Police Retiring Ass'n Inc.* v. *W. N. Tobriner et al.* (1962, 306 F. 2d 775, — U.S. App. D.C. —).

The legislation relating to insurance in District of Columbia is so elaborate that court is not inclined to strain its coverage to include an activity left uncovered by the ordinary meaning of language used. *Id.*

The absence of a profit motive and facts that Metropolitan Police Retiring Association possesses a representative government and engages in no solicitation of the public, add some though not controlling support to review that its activities are not within scope of statute primarily designed to protect insured vis-a-vis the insurer. *Id.*

Where Metropolitan Police Retiring Association was incorporated as a charitable organization, membership was limited to members of Metropolitan Police Department, the White House Police, and Park Police, purpose of association was to furnish financial relief to members in case of their retirement from police force, payments upon retirement were principally the amounts of retirees' own contributions with some increment of interest from investments which were required to be approved by majority of board of directors and by majority vote of membership in regular session, association was not engaged in "insurance" and hence was not required to obtain certificate of authority from Superintendent of Insurance. *Id.*

Chapter 2.—PROVISIONS APPLICABLE TO MORE THAN ONE KIND OF INSURANCE

§ 35–202. Health, accident, and life insurance companies defined—Assets and capital stock required—Amount of policies—Taxation—Reports to Superintendent of Insurance—Examination by Superintendent of Insurance—Appeal to Commissioners—Fraternal beneficial and certain other organizations exempt.

NOTES TO DECISIONS

Benefit order 1
Engaging in insurance 1.50

1. Benefit order

The 1940 act requiring that all fire, marine and casualty companies doing business in District of Columbia must obtain certificate of authority expressly repealed earlier statute exempting nonprofit relief associations composed of government employees from licensing and regulation, and consequently unincorporated nonprofit labor organization composed exclusively of postal clerks employed by United States Post Office Department must obtain from superintendent of insurance certificate of authority to operate program of health insurance. *National Federation of Post Office Clerks, etc.* v. *District of Columbia* (D.C. Mun. App. 1961, 173 A. 2d 483).

1.50. Engaging in insurance

Statutes regulating business of insurance were not intended for application to all organizations having some element of risk assumption or distribution in their operations. *Metropolitan Police Retiring Ass'n Inc.* v. *W. N. Tobriner et al.* (1962, 306 F. 2d 775, — U.S. App. D.C. —).

The legislation relating to insurance in District of Columbia is so elaborate that court is not inclined to strain its coverage to include an activity left uncovered by the ordinary meaning of language used. *Id.*

The absence of a profit motive and facts that Metropolitan Police Retiring Association possesses a representative government and engages in no solicitation of the public, add some though not controlling support to review that its activities are not within scope of statute primarily designed to protect insured vis-a-vis the insurer. *Id.*

Where Metropolitan Police Retiring Association was incorporated as a charitable organization, membership was limited to members of Metropolitan Police Department, the White House Police, and Park Police, purpose of association was to furnish financial relief to members in case of their retirement from police force, payments upon retirement where principally the amounts of retirees' own contributions with some increment of interest from investments which were required to be approved by majority of board of directors and by majority vote of membership in regular session, association was not engaged in "insurance" and hence was not required to obtain certificate of authority from Superintendent of Insurance. *Id.*

90003 O—63——12

Chapter 4.—DEPARTMENT OF INSURANCE WITH RESPECT TO LIFE COMPANIES

§ 35-404. Certificate of authority—Investigation of Qualifications—Effect—Issuance.

NOTES TO DECISIONS

.50. Engaging in insurance

Statutes regulating business of insurance were not intended for application to all organizations having some element of risk assumption or distribution in their operations. *Metropolitan Police Retiring Ass'n Inc.* v. *W. N. Tobriner et al.* (1962, 306 F. 2d 775, — U.S. App. D.C. —).

The legislation relating to insurance in District of Columbia is so elaborate that court is not inclined to strain its coverage to include an activity left uncovered by the ordinary meaning of language used. *Id.*

The absence of a profit motive and facts that Metropolitan Police Retiring Association possesses a representative government and engages in no solicitation of the public, add some though not controlling support to review that its activities are not within scope of statute primarily designed to protect insured vis-a-vis the insurer. *Id.*

Where Metropolitan Police Retiring Association was incorporated as a charitable organization, membership was limited to members of Metropolitan Police Department, the White House Police, and Park Police, purpose of association was to furnish financial relief to members in case of their retirement from police force, payments upon retirement were principally the amounts of retirees' own contributions with some increment of interest from investments which were required to be approved by majority of board of directors and by majority vote of membership in regular session, association was not engaged in "insurance" and hence was not required to obtain certificate of authority from Superintendent of Insurance. *Id.*

1. Jurisdiction

The United States District Court for District of Columbia, as local court of general jurisdiction, had jurisdiction without express statutory authorization to review administrative action by trial de novo. *A. F. Jordan, Sup't of Insurance etc.* v. *United Insurance Co. of America* (1961, 288 F. 2d 778, 110 U.S. App. D.C. 112).

2. License requirements

Insurer who seeks licenses under the Life Insurance Act and the Fire and Casualty Act bears responsibility of satisfying the more stringent requirement regardless of which statute prescribes it, and if two certificates are issued, each must stand on its own feet. *Travelers Insurance Co.* v. *A. F. Jordan, Dep't of Insurance etc.* (1961, 287 F. 2d 347, 109 U.S. App. D.C. 308).

Life Insurance Act of District of Columbia and Fire and Casualty Act do not prohibit issuance of certificate or certificates authorizing a single insurer to do both life and casualty insurance business. *Id.*

3. Superintendent's authority

Statute authorizing District of Columbia Superintendent of Insurance, upon satisfying himself by such investigation as he may deem proper or necessary, to refuse to issue or renew certificate, does not authorize superintendent to hold hearing, and grant of hearing by him on question of renewal of certificate was gratuitous. *A. F. Jordan, Sup't of Insurance etc.* v. *United Insurance Co. of America* (1961, 289 F. 2d 778, 110 U.S. App. D.C. 112).

4. Trial de novo

It was proper for District Court to grant trial de novo, rather than merely reviewing administrative record, in insurer's action against District of Columbia Superintendent of Insurance to set aside ruling denying renewal of certificate of authority, where statutes did not provide for administrative hearing, notwithstanding fact that superintendent had granted one. *A. F. Jordan, Sup't of Insurance etc.* v. *United Insurance Co. of America* (1961, 289 F. 2d 778, 110 U.S. App. D.C. 112).

§ 35-414. False statements in application for insurance.

NOTES TO DECISIONS

6.50. Misrepresentation by beneficiary

Misrepresentation by beneficiary, in his application for a life policy on his month-old daughter of fact that he had applied to another insurer for a similar policy, even if participated in by insurer's agent, was material and constituted a valid defense to recovery on the policy. *R. L. Jannenga* v. *National Life Ins. Co.* (1961, 288 F. 2d 169, 109 U.S. App. D.C. 385).

9.50. Test of materiality

Test of materiality of a statement in an insurance application is whether the representation would reasonably influence insurer's decision as to whether it should insure. *R. L. Jannenga* v. *Nationwide Life Ins. Co.* (1961, 288 F. 2d 169, 109 U.S. App. D.C. 385).

§ 35-425. General agent, agent, solicitor—License required—Application—Contents—Applicant vouched for by company—Placement of excess or rejected risks—Expiration and renewal of license—Officers and traveling salaried employees excepted—Notice of termination of employment—Information privileged.

NOTES TO DECISIONS

1. Predication of indictment

A perjury indictment could not be grounded upon a knowingly false answer to a question placed by superintendent of insurance, in an application for a license to act as an insurance solicitor. *C. S. Nelson* v. *United States* (1961, 288 F. 2d 376, 109 U.S. App. D.C. 392).

2. Propriety of regulation

Superintendent of insurance does not have power to promulgate regulations, and was not authorized to make felonious even a knowingly false answer to a question which Congress had not made material. *C. S. Nelson* v. *United States* (1961, 288 F. 2d 376, 109 U.S. App. D.C. 392).

3. Sufficiency of indictment

Indictment charging defendant generally in statutory language, with three counts of perjury, would be deemed sufficient, especially where record indicated that defendant had not been misled or prejudiced in his defense, and had not moved for a bill of particulars. *C. S. Nelson* v. *United States* (1961, 288 F. 2d 376, 109 U.S. App. D.C. 392.

4. Weight of Superintendent's decisions

Decision of superintendent of insurance for District of Columbia as to whether general insurance agent's license should be renewed must be given weight because of superintendent's special position in congressional regulatory plan. *A. F. Jordan, Superintendent of Insurance etc.* v. *J. Silverman* (1961, 294 F. 2d 916, 111 U.S. App. D.C. 132).

District Court's conclusion on appeal that action of superintendent of insurance for District of Columbia in refusing to renew general insurance agent's license should not be sustained was not in derogation of statutory responsibility of superintendent. *Id.*

Notwithstanding weight to be given decision of superintendent of insurance for District of Columbia to deny renewal of general insurance agent's license, evidence as a whole, consisting of administrative record and that additionally adduced before District Court, supported conclusion that action of superintendent should not be sustained. *Id.*

§ 35-427. Appeal from rulings of Superintendent—Procedure—Costs and supersedeas bond—Liability of Superintendent.

NOTES TO DECISIONS

2. Jurisdiction

The United States District Court for District of Columbia, as local court of general jurisdiction, had jurisdiction without express statutory authorization to review administrative action by trial de novo. *A. F. Jordan, Sup't of Insurance etc.* v. *United Insurance Co. of America* (1961, 289 F. 2d 778, 110 U.S. App. D.C. 112).

3. Weight of Superintendent's decisions

Decision of superintendent of insurance for District of Columbia as to whether general insurance agent's license should be renewed must be given weight because of superintendent's special position in congressional regulatory plan. *A. F. Jordan, Superintendent of Insurance etc.* v. *J. Silverman* (1961, 294 F. 2d 916, 111 U.S. App. D.C. 132).

District Court's conclusion on appeal that action of superintendent of insurance for District of Columbia in refusing to renew general insurance agent's license should not be sustained was not in derogation of statutory responsibility of superintendent. *Id.*

Notwithstanding weight to be given decision of superintendent of insurance for District of Columbia to deny renewal of general insurance agent's license, evidence as a whole, consisting of administrative record and that additionally adduced before District Court, supported conclusion that action of superintendent should not be sustained. *Id.*

Chapter 5.—DOMESTIC LIFE COMPANIES

§ 35–535. Investment of funds of domestic companies.

A domestic company shall invest its funds only in—

(1) Bonds, notes, or other evidences of indebtedness of the United States, any State, Territory, or possession of the United States, the District of Columbia, the Dominion of Canada, any Province of the Dominion of Canada, or of any administration, agency, authority, or instrumentality of any of the political units enumerated; or obligations issued or guaranteed as to principal and interest by the International Bank for Reconstruction and Development or by the Inter-American Development Bank.

* * * * *

(10) (a) * * *

(b) In addition to the investments authorized in paragraph (10) (a), common stocks of any insurance company (other than as prohibited in section 35–540) created under the laws of the United States, or by any State thereof, or the District of Columbia: *Provided, however,* That stocks may be acquired under this paragraph (10) (b) only (i) with the intention of ultimately acquiring ownership or control of the issuing corporation as an affiliate or a subsidiary, (ii) if such acquisition will not cause the acquiring company's aggregate cost of investments under this paragraph to exceed, in the case of a capital stock company, the amount of capital, surplus and contingency reserves in excess of $150,000 or, in the case of a mutual company, the amount of surplus and contingency reserves in excess of $150,000, and (iii) after the Superintendent of Insurance of the District of Columbia has been furnished with such information as he may require and has given to the acquiring company his written approval of the proposed acquisition stating his opinion that it will not substantially lessen competition, will not tend to create a monopoly in any line of insurance, and will not impair the financial stability of the acquiring company. (Sept. 14, 1961, 75 Stat. 514, Pub. L. 87–245, § 1; Oct. 3, 1962, 76 Stat. 715, Pub. L. 87–739, § 1).

AMENDMENTS

1962—Act Oct. 3, 1962, amended clause (1) so as to permit investments in securities of the Inter-American Development Bank.

1961—Act Sept. 14, 1961, amended subsection (10) by designating it as subsection (10) (a) and by adding a new par. to said subsection designated as (10) (b).

Chapter 7.—PROVISIONS RELATING TO ALL LIFE INSURANCE COMPANIES

§ 35–701. Superintendent to value policies—Legal standard of valuation.

* * * * *

(c) This subsection shall apply to only those policies and contracts issued on or after the operative date of section 35–705b (the standard nonforfeiture law).

(1) The minimum standard for the valuation of all such policies and contracts shall be the Commissioners reserve valuation method defined in paragraph (2), 3½ per centum interest, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of the next to the last paragraph of section 35–705b(d), and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than three years younger than the actual age of the insured.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of the last paragraph of section 35–701b(d), and the Commissioners 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date.

(iii) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Superintendent.

(iv) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of such table approved by the Superintendent, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement

rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Intercompany Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Intercompany Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the Superintendent.

(As amended Oct. 3, 1962, 76 Stat. 711, Pub. L. 87–738, § 1.)

AMENDMENTS

1962—Section 1 of act Oct. 3, 1962, amended paragraph (1) of subsection (c) to read as above set out. For provisions of this paragraph prior to this amendment see main volume of the Code.

§ 35–705b. Standard nonforfeiture law.

* * * * *

(d) Except as provided in the third paragraph of this subsection, the adjusted premiums for any policy referred to in subsection (a) shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) 2 per centum of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) 40 per centum of the adjusted premium for the first policy year; (iv) 25 per centum of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less: *Provided, however,* That in applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed 4 per centum of the amount of insurance or uniform amount equivalent thereto.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy: *Provided, however,* That in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of (ii), (iii), and (iv) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in the next succeeding paragraphs of this subsection, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table: *Provided,* That for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding 3½ per centum per annum, specified in the policy for calculating cash surrender values, if any, and paid-up nonforfeiture benefits: *Provided, however,* That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130 per centum of the rates of mortality according to such applicable table: *Provided further,* That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Superintendent.

In the case of ordinary policies issued on or after the operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordi-

nary Mortality Table and the rate of interest, not exceeding 3½ per centum per annum, specified in the policy for calculating cash surrender values, if any, and paid-up nonforfeiture benefits: *Provided,* That for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured: *Provided, however,* That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table: *Provided further,* That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Superintendent. After the effective date of the amendatory Act of 1960, any company may file with the Superintendent a written notice of its election to comply with the provisions of this paragraph after a specified date before January first, nineteen hundred and sixty-six. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph for such company), this paragraph shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this paragraph for such company shall be January first, nineteen hundred and sixty-six.

In the case of industrial policies issued on or after the operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest, not exceeding 3½ per centum per annum, specified in the policy for calculating cash surrender values, if any, and paid-up nonforfeiture benefits: *Provided, however,* That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table: *Provided further,* That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Superintendent. After the effective date of the amendatory Act of 1962, any company may file with the Superintendent a written notice of its election to comply with the provisions of this paragraph after a specified date before January first, nineteen hundred and sixty-eight. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph for such company), this paragraph shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this paragraph for such company shall be January first, nineteen hundred and sixty-eight.

(e) Any cash surrender value and any paid-up nonforfeiture benefit, available under any such policy in the event of default in the payment of any premium due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (b), (c), and (d) may be calculated upon the assumption that any death benefit is payable at the end of the policy or contract year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (b), additional benefits payable (i) in the event of death or dismemberment by accident or accidental means, (ii) in the event of total and permanent disability, (iii) as reversionary annuity or deferred reversionary annuity benefits, (iv) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (v) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up be reason of the death of a parent of the child, and (vi) as other policy benefits additional to life insurance and endowment benefits and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

* * * * *

(g) After February 19, 1948, any company may file with the Superintendent a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1950. After the filing of such notice, then upon such specified date (which shall be the operative date for such company), this section shall become operative with respect to the policies and contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1950: *Provided, however,* That the operative date of the last two paragraphs of subsection (d) shall be as stated therein. (As amended Oct. 3, 1962, 76 Stat. 712, Pub. L. 87–738, § 2.)

AMENDMENTS

1962—Section 2 of act Oct. 3, 1962, amended subsection (d) to read as above set out; subsection (e) by adding the matter set out in clause (v) and subsection (g) by changing the word "paragraph" in the last sentence to read "two paragraphs."

§ 35–710. Group life insurance.

* * * * *

(7) Any policy issued pursuant to this section, except a policy issued to a creditor pursuant to subsection (2) hereof, may be extended to insure the spouses and minor children of insured persons, or

any class or classes thereof, subject to the following requirements:

(a) The premiums for the insurance shall be paid by the policy holder either from the policy holder's funds or from funds contributed by the insured person, or from both. If any part of the premium is to be derived from funds contributed by the insured persons, the insurance with respect to spouses and children may be placed in force only if at least 75 per centum of the then eligible employees or members of the organization or the association, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the insured persons, all such eligible employees or members of the organization or the association excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

* * * * *

(8) A policy of group life insurance issued to a credit union organized pursuant to the laws of the District of Columbia or pursuant to the Federal Credit Union Act, which credit union shall be deemed the policyholder, to insure members of the credit union for the benefit of persons other than the credit union, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the credit union, or all of any class or classes thereof determined by age, or by membership in the credit union, or both.

(b) The premium for the policy shall be paid by the policyholder, either from the credit union's own funds, or from charges collected from the insured members specifically for the insurance, or both. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75 per centum of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least twenty-five members at date of issue.

(d) The amount of insurance on the life of any member shall not exceed the total amount of his shares and deposits in the credit union or $2,000, whichever is less. Such policy may be issued either in addition to, or in lieu of, a policy issued pursuant to section 35–710(2).

(9) A policy issued to a duly organized national veterans' organization which has been organized and is maintained for purposes other than that of obtaining insurance, which shall be deemed the policyholder, to insure members of such organization for the benefit of persons other than the organization, or any of its officials, representatives, or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all the members of the organization, or all of any class or classes thereof determined by conditions pertaining to their membership in the organization, or both.

(b) The premium for the policy shall be paid by the policyholder either wholly from the organization's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance, or from funds wholly contributed by the insured members specifically for their insurance. A policy on which any part or all of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 60 per centum of the then eligible members or a minimum of four hundred members, whichever is less, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least twenty-five members at date of issuance.

(d) The amounts of insurance under the policy must be based on some plan precluding individual selection either by the members, or by the organization. No policy may be issued which provides term insurance on any organization member which, together with any other term insurance under any group life insurance policy or policies, exceeds $20,000, unless 150 per centum of the annual compensation of such person exceeds $20,000, in which event all such term insurance shall not exceed $40,000, or 150 per centum of such annual compensation, whichever is less.

(Sept. 14, 1961, 75 Stat. 519, Pub. L. 87–249, § 1; Oct. 23, 1962, 76 Stat. 1131, Pub. L. 87–855, §§ 1, 2.)

REFERENCE IN TEXT

The Federal Credit Union Act, referred to in text, is set out as chapter 14, in Title 12 of the United States Code.

AMENDMENTS

1962—Act Oct. 23, 1962, amended section by adding subsection 9 thereto, as above set out.

1961—Act Sept. 14, 1961, amended section by adding subsection 8 thereto, as above set out.

CROSS REFERENCE

For provisions relating to amount of credit life, accident, and health insurance, see § 35–1604.

§ 35–711. Standard provisions for policies of group life insurance.

* * * * *

Provided, however, (a) That provisions (6) to (10), inclusive, shall not apply to policies issued to a creditor to insure debtors of such creditor, or to policies issued pursuant to section 35–710(b);

* * * * *

(Oct. 3, 1962, 76 Stat. 715, Pub L. 87–740, § 1.)

AMENDMENTS

1962—Act Oct. 3, 1962, amended clause (a) of the proviso in the first sentence by adding a comma after the word creditor and the words "or to policies issued pursuant to section 10(8) [35–710(8)] of this chapter.".

Chapter 9.—FRATERNAL BENEFIT ASSOCIATIONS

§ 35–907. Organization—Procedure—Certificate of declaration—Recording—Corporate powers—Trustees, directors, or managers—Election—Quorum.

AMENDMENTS

1962—Section 2 of act Oct. 5, 1962, 76 Stat. 752, Pub. L. 87–757, amended the second sentence of the section by striking out the phrase "which shall not exceed fifty-five years and that medical examinations are required of applicants for life benefits".

Chapter 13.—FIRE, CASUALTY, AND MARINE INSURANCE

§ 35–1301. Short title.

NOTES TO DECISIONS

1. Labor organization

The 1940 act requiring that all fire, marine, and casualty companies doing business in District of Columbia must obtain certificate of authority expressly repealed earlier statute exempting nonprofit relief associations composed of government employees from licensing and regulation, and consequently unincorporated nonprofit labor organization composed exclusively of postal clerks employed by United States Post Office Department must obtain from superintendent of insurance certificate of authority to operate program of health insurance. *National Federation of Post Office Clerks etc.* v. *District of Columbia* (D.C. Mun. App. 1961, 173 A. 2d 483).

§ 35–1302. Application of chapter—Life, title, fidelity, and surety companies and pension plans excepted.

NOTES TO DECISIONS

1. Labor organization

The 1940 act requiring that all fire, marine and casualty companies doing business in District of Columbia must obtain certificate of authority expressly repealed earlier statute exempting nonprofit relief associations composed of government employees from licensing and regulation, and consequently unincorporated nonprofit labor organization composed exclusively of postal clerks employed by United States Post Office Department must obtain from superintendent of insurance certificate of authority to operate program of health insurance. *National Federation of Post Office Clerks etc.* v. *District of Columbia* (D.C. Mun. App. 1961, 173 A. 2d 483).

§ 35–1303. Definitions.

NOTES TO DECISIONS

Engaging in insurance .50
Labor organization 1

.50. Engaging in insurance

Statutes regulating business of insurance were not intended for application to all organizations having some element of risk assumption or distribution in their operations. *Metropolitan Police Retiring Assn. Inc.* v. *W. N. Tobriner et al.* (1962, 306 F. 2d 775, — U.S. App. D.C. —).

The legislation relating to insurance in District of Columbia is so elaborate that court is not inclined to strain its coverage to include an activity left uncovered by the ordinary meaning of language used. *Id.*

The absence of a profit motive and facts that Metropolitan Police Retiring Association possesses a representative government and engages in no solicitation of the public, add some though not controlling support to review that its activities are not within scope of statute primarily designed to protect insured vis-a-vis the insurer. *Id.*

Where Metropolitan Police Retiring Association was incorporated as a charitable organization, membership was limited to members of Metropolitan Police Department, the White House Police, and Park Police, purpose of association was to furnish financial relief to members in case of their retirement from police force, payments upon retirement were principally the amounts of retirees' own contributions with some increment of interest from investments which were required to be approved by majority of board of directors and by majority vote of membership in regular session, association was not engaged in "insurance" and hence was not required to obtain certificate of authority from Superintendent of Insurance. *Id.*

1. Labor organization

The 1940 act requiring that all fire, marine and casualty companies doing business in District of Columbia must obtain certificate of authority expressly repealed earlier statute exempting nonprofit relief associations composed of government employees from licensing and regulation, and consequently unincorporated nonprofit labor organization composed exclusively of postal clerks employed by United States Post Office Department must obtain from superintendent of insurance certificate of authority to operate program of health insurance. *National Federation of Post Office Clerks etc.* v. *District of Columbia* (D.C. Mun. App. 1961, 173 A. 2d 483).

§ 35–1305. Certificate of authority—Necessity for—Expiration—Requirements.

NOTES TO DECISIONS

1. License requirements

Insurer who seeks licenses under the Life Insurance Act and the Fire and Casualty Act bears responsibility of satisfying the more stringent requirement regardless of which statute prescribes it, and if two certificates are issued, each must stand on its own feet. *Travelers Insurance Co.* v. *A. F. Jordan, Dept. of Insurance etc.* (1961, 287 F. 2d 347, 109 U.S. App. D.C. 308).

Life Insurance Act of District of Columbia and Fire and Casualty Act do not prohibit issuance of certificate or certificates authorizing a single insurer to do both life and casualty insurance business. *Id.*

§ 35–1321. Investments permitted, domestic companies—Real estate, insurance on improvements required—Real estate required to be unencumbered, "encumbrances" defined—Stock and bonds, investments may not be made when dividends or interest have not been paid—Foreign investments—Approval of directors or supervising committee—Joint investments forbidden.

A domestic company shall invest its funds only in—

(1) Bonds or other evidences of indebtedness of the United States, or of any State; or of the Dominion of Canada, or of any Province thereof; or obligations issued or guaranteed as to principal and interest by the International Bank for Reconstruction and Development or by the Inter-American Development Bank.

* * * * *

(Oct. 9, 1940, 54 Stat. 1072, ch. 792, § 18, ch. II; July 19, 1954, 68 Stat. 494, ch. 546, § 1; Oct. 3, 1962, 76 Stat. 715, Pub. L. 87–739, § 2.)

AMENDMENTS

1962—Act Oct. 3, 1962, amended clause (1) of section so as to permit investments in securities of the Inter-American Development Bank.

§ 35–1323. Foreign or alien companies, admission—Certificate of authority required.

NOTES TO DECISIONS

1. License requirements

Insurer who seeks licenses under the Life Insurance Act and the Fire and Casualty Act bears responsibility of satisfying the more stringent requirement regardless of which statute prescribes it, and if two certificates are

issued, each must stand on its own feet. *Travelers Insurance Co.* v. *A. F. Jordan, Dept. of Insurance etc.* (1961, 287 F. 2d 347, 109 U.S. App. D.C. 308).

Life Insurance Act of District of Columbia and Fire and Casualty Act do not prohibit issuance of certificate or certificates authorizing a single insurer to do both life and casualty insurance business. *Id.*

§ 35–1327. Process, service upon foreign or alien companies by service on Superintendent—Force and effect—Registered letter to company—Proof of service—Penalty for failure to designate attorney for service of process.

NOTES TO DECISIONS

1. Doing business

Activity of insurer, not licensed to do business in the District of Columbia, in issuing policy to resident of district, who entered into contract in district, was sufficient "doing business" to authorize substituted service on Superintendent of Insurance in insured's subsequent action against insurer, and such service was valid. *United States Liability Ins. Co.* v. *A. Handy* (D.C. Mun. App. 1961, 173 A. 2d 208).

§ 35–1339. Renewal of licenses—Written notice of refusal to renew—Hearing—Application to court for leave to continue business pending appeal.

NOTES TO DECISIONS

.50. License requirements

Insurer who seeks licenses under the Life Insurance Act and the Fire and Casualty Act bears responsibility of satisfying the more stringent requirement regardless of which statute prescribes it, and if two certificates are issued, each must stand on its own feet. *Travelers Insurance Co.* v. *A. F. Jordan, Dept. of Insurance etc.* (1961, 287 F. 2d 347, 109 U.S. App. D.C. 308).

Life Insurance Act of District of Columbia and Fire and Casualty Act do not prohibit issuance of certificate or certificates authorizing a single insurer to do both life and casualty insurance business. *Id.*

§ 35–1340. Revocation and suspension of licenses—Grounds for—Notice and hearing—Evidence.

NOTES TO DECISIONS

1. Jurisdiction

The United States District Court for District of Columbia, as local court of general jurisdiction, had jurisdiction without express statutory authorization to review administrative action by trial de novo. *A. F. Jordan, Supt. of Insurance etc.* v. *United Insurance Co. of America* (1961, 289 F. 2d 778, 110 U.S. App. D.C. 112).

Chapter 16.—CREDIT LIFE, ACCIDENT, AND HEALTH INSURANCE

§ 35–1601. Title—Scope of chapter.

(a) This chapter regulating credit life insurance and credit accident and health insurance in the District of Columbia may be cited as "The Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance".

(b) All life insurance and all accident and health insurance in connection with loans or other credit transactions of less than five years duration in the District of Columbia shall be subject to the provisions of this chapter. Such insurance written in connection with a loan or other credit transaction of five years duration or more shall not be subject to the provisions of this chapter, nor shall such insurance be subject to the provisions of this chapter if the issuance of the insurance is an isolated transaction on the part of the insurer not relater to a plan or regular course of conduct for insuring debtors of the creditor. (Sept. 5, 1962, 76 Stat. 580, Pub. L. 87–686, § 1.)

EFFECTIVE DATE

Section 14 of act Sept. 25, 1962, provides: "This Act [this chapter] shall take effect ninety days after its approval." [Sept. 25, 1962]

EFFECT OF REORGANIZATION PLAN NUMBERED 5 OF 1952

Section 13 of act Sept. 25, 1962, provided as follows: "Nothing in this Act [this chapter] shall be construed so as to affect the authority vested in the Commissioners by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this Act [this chapter] in the Commissioners or in any office or agency under the jurisdiction and control of said Commissioners may be delegated by said Commissioners in accordance with section 3 of such plan."

§ 35–1602. Definitions.

For the purpose of this chapter—

(a) "Commissioners" means the Commissioners of the District of Columbia;

(b) "Credit life insurance" means insurance issued on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;

(c) "Credit accident and health insurance" means insurance against the disability of a debtor which provides indemnity for payments on a specific loan or other credit transaction;

(d) "Creditor" means the lender of money or vendor of goods, services, or property, including a lessor under a lease intended as a security, for which payment is arranged through a loan or other credit transaction, and includes any successor to the right, title, or interest of any such lender, vendor, or lessor;

(e) "Debtor" means a borrower of money or purchaser of goods, services, or property, including a lessee under a lease intended as a security, for which payment is arranged through a loan or other credit transaction;

(f) "District" means the District of Columbia;

(g) "Indebtedness" means the amount payable by a debtor to a creditor in connection with a loan or other credit transaction; and

(h) "Superintendent" means the Superintendent of Insurance of the District of Columbia. (Sept. 25, 1962, 76 Stat. 580, Pub. L. 87–686, § 2.)

§ 35–1603. Forms of credit life insurance and credit accident and health insurance.

Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

(a) Individual policies of life insurance issued to debtors on the term plan;

(b) Individual policies of accident and health insurance issued to debtors on a term plan or disability provisions in individual life policies to provide such coverage;

(c) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

(d) Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability provisions in group life policies to provide such coverage. (Sept. 25, 1962, 76 Stat. 581, Pub. L. 87–686, § 3.)

§ 35–1604. Amount of credit life insurance and credit accident and health insurance.

(a) The amount of credit life insurance shall not exceed the initial indebtedness however the indebtedness may be repayable: *Provided, however,* That nothing contained herein shall be deemed to supersede or repeal the limitation on the amount of group insurance specified in section 35–710(2)(d). In cases where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled amount of unpaid indebtedness in the case of any individual policy or the actual amount of the unpaid indebtedness in the case of any group policy.

(b) The amount of indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments. (Sept. 25, 1962, 76 Stat. 581, Pub. L. 87–686, § 4.)

§ 35–1605. Term of credit life insurance and credit accident and health insurance.

The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurance company, commence on the date when the debtor becomes obligated to the creditor, except that where a group policy provides coverage with respect to existing obligations the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and such evidence is furnished more than thirty days from the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of such insurance shall not extend more than fifteen days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewal or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 35–1608. (Sept. 25, 1962, 76 Stat. 581, Pub. L. 87–686, § 5.)

§ 35–1606. Provisions of policies and certificates of insurance—Disclosure to debtors.

(a) All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy or in the case of group insurance by a group policy and individual certificates of insurance.

(b) Each individual policy or certificate of credit life insurance, each individual policy or certificate of credit accident and health insurance, and each individual policy or certificate of credit life insurance and credit accident and health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurance company, and the identity by name or otherwise of the person insured, the rate or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit accident and health insurance, a description of the coverage, including the amount and term thereof (which in the case of group insurance may be by description rather than stated amount and term), any exceptions, limitations, or restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, whenever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

(c) Except as hereinafter provided, an individual policy or certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred.

(d) If a debtor makes a separate payment for credit life or credit accident and health insurance and an individual policy or certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance shall be delivered at such time to the debtor by the creditor. The copy of the application for or notice of proposed insurance shall be signed by the debtor and shall set forth the identity by name or otherwise of the person insured; the rate or amount of payment by the debtor separately for credit life insurance and credit accident and health insurance; and a statement that within thirty days, if the insurance is accepted by the insurance company, there will be delivered to the debtor an individual policy or certificate of insurance containing the name and home office address of the insurance company, and a description of the amount, term, and coverage including any exceptions, limitations, and restrictions. The copy of the application for, or notice of, proposed insurance shall refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information required by this subsection is prominently set forth in such statement of account, instrument, or agreement. If a debtor does not make a separate payment for credit life or credit accident and health insurance, an application need not be taken or a notice of proposed insurance given. In any case, upon acceptance of the

insurance by the insurance company, and within thirty days of the date upon which the term of the insurance commences, the insurance company shall cause the individual policy or certificate of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that, upon acceptance by the insurance company, the insurance shall become effective as provided in section 35–1605. (Sept. 25, 1962, 76 Stat. 581, Pub. L. 87–686, § 6.)

§ 35–1607. Filing, approval, and withdrawal of forms.

(a) All forms of policies, certificates of insurance, notices of proposed insurance, applications for insurance, binders, endorsements and riders delivered or issued for delivery in the District and the premium rates pertaining thereto shall be filed with the Superintendent by the insurance company, in such manner and together with such supporting information as the Superintendent may reasonably require. In any case where a group policy is made for a group in the District and the policy is neither delivered nor issued for delivery in the District, the form of policy and all other forms and premium rates referred to in the preceding sentence shall be filed with the Superintendent by the insurance company.

(b) The Superintendent may, within thirty days after the filing of any form of policy, certificate of insurance, notice of proposed insurance, application for insurance, binder, endorsement or rider, disapprove any such form if the premium rates charged or to be charged appear by reasonable assumptions to be excessive in relation to benefits paid or to be paid, or if the form contains provisions which are unjust, unfair, inequitable, misleading, or deceptive. In determining whether to disapprove any such form the Superintendent may give due consideration to past and prospective loss experience within and outside the District, to underwriting practice and judgment to the extent appropriate, and to all other relevant factors within and outside the District, and he may take into account the experience of the individual company.

(c) If the Superintendent notifies the insurance company that the form does not comply with the requirements of this chapter, it shall be unlawful thereafter for such insurance company to issue or use such form. In such notice, the Superintendent shall specify the reason for his disapproval and state that a hearing will be granted promptly upon request in writing by the insurance company. No such policy, certificate of insurance, notice of proposed insurance, application for insurance, binder, endorsement, or rider shall be issued or used until the expiration of thiry days after it has been so filed, unless the Superintendent shall give his prior written approval thereto.

(d) The Superintendent may, at any time after a hearing, held after not less than twenty days' written notice to the insurance company, withdraw his approval of any such form if it does not meet the requirements of this chapter.

(e) The insurance company shall not issue such forms or use them after the effective date of such withdrawal of approval.

(f) The insurance company may revise such forms and the premium rates pertaining thereto from time to time, and such revised forms and premium rates shall be filed with the Superintendent and shall be subject to all the preceding requirements of this section, in like manner as though they were original filings with the Superintendent. (Sept. 25, 1962, 76 Stat. 582, Pub. L. 87–686, § 7.)

§ 35–1608. Refunds.

(a) Each individual policy or certificate of credit life insurance or credit accident and health insurance shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto: *Provided,* That the Superintendent shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing refunds shall be filed with the Superintendent who may disapprove such formula if he finds that it is unjust or unreasonable.

(b) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit accident and health insurance and an individual policy or certificate of insurance is not issued, the creditor shall promptly give written notice to such debtor and shall promptly make an appropriate credit to the account.

(c) The amount charged to a debtor for credit life or credit accident and health insurance shall not exceed the premium rate charged by the insurance company at the time the charge to the debtor is determined. (Sept. 25, 1962, 76 Stat. 583, Pub. L. 87–686, § 8.)

§ 35–1609. Claims.

(a) All claims shall be paid either by draft drawn upon the insurance company or by check of the insurance company to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified, and every insurance company shall be held to strict settlement of all such claims.

(b) It shall be unlawful for any creditor, having received any such check or draft from such insurance company, to fail to correctly credit the account, pay to or upon the direction of, or otherwise correctly account to the claimant to whom payment is due for the full amount of such check or draft, less any lawful deductions therefrom.

(c) No plan or arrangement shall be used whereby any person, firm, or corporation other than the insurance company or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurance company in adjusting claims, nor, in the case of an individual creditor, shall the spouse of such creditor or any relative of the creditor or spouse within the third degree of consanguinity be so designated, nor shall any officer or employee of a corporate creditor or any spouse or relative of such officer, employee, or spouse within the third degree of consanguinity be so designated: *Provided,* That a group policyholder may, by arrangement with the group insurance company, draw drafts or checks in payment of claims due to the group policyholder subject to audit and

review by the insurance company. (Sept. 25, 1962, 76 Stat. 584, Pub. L. 87–686, § 9.)

§ 35–1610. Existing insurance—Choice of insurer.

When credit life insurance or credit accident and health insurance is required as additional security for any indebtedness, the creditor may not require that the insurance be written through any particular insurance company or any particular agent, and the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurance company authorized to transact an insurance business within the District. (Sept. 25, 1962, 76 Stat. 584, Pub. L. 87–686, § 10.)

§ 35–1611. Enforcement.

(a) In the case of any violation of this chapter by an insurance company, agent, solicitor, or broker, the Superintendent shall have authority to proceed in accordance with the provisions of sections 35–405 and 35–426 and sections 35–1306 and 35–1340.

(b) In the case of any violation of this chapter by a creditor or by any other person not licensed in the District as an insurance agent, solicitor, or broker, regardless of the fact that such creditor or other person is not required by law to be so licensed, the penalties and the procedure for their imposition shall be as set forth in section 35–1347. (Sept. 25, 1962, 76 Stat. 584, Pub. L. 87–686, § 11.)

§ 35–1612. Judicial review.

Any insurance company, agent, solicitor, or broker aggrieved by any order or action of the Superintendent under this chapter may contest the validity of such order or action by appeal or through any other appropriate proceeding, in accordance with the procedures prescribed by sections 35–1348 and 35–1349: *Provided,* That any such insurance company, agent, solicitor, or broker which is licensed in the District under the Life Insurance Act approved June 19, 1934, as amended, may contest the validity of such order or action by appeal or through any other appropriate proceeding in accordance with the procedures prescribed by such Act approved June 19, 1934. (Sept. 25, 1962, 76 Stat. 585, Pub. L. 87–686, § 12.)

References in Text

The Life Insurance Act of June 19, 1934, referred to in text is set out in chapters 3, 4, 5, 6, 7, and 8 of Title 35, D.C. Code.

TITLE 36.—LABOR

Chapter 4.—MINIMUM WAGE LAW

SUBCHAPTER I.—MINIMUM WAGES

§ 36-401. Definitions.

CROSS REFERENCE

Provisions establishing standards for hours of work and overtime pay of laborers and mechanics employed on work done under contract for, or with the financial aid of, the United States, for any territory, or for the District of Columbia, see title 40, §§ 327 to 332 and title 5, § 673c of the U.S. Code.

Chapter 5.—WORKMEN'S COMPENSATION

§ 36-501. Longshoremen's and Harbor Workers' Compensation Act made applicable to District of Columbia.

NOTES TO DECISIONS

5.50. Apportionment

Where death was validly found to have been attributable equally to two successive injuries occurring within scope of employment by different employers, liability was properly to be apportioned equally between employers and their respective insurers insofar as death benefits and medical and funeral expenses were concerned. *United Painters & Decorators et al.* v. *T. Britton, Deputy Commissioner etc.* (1962, 301 F. 2d 560, 112 U.S. App. D.C. 236).

13.50. Course of employment

Record supported determinations that employee's death, occurring when employer's truck, driven by employee, crashed some five hours after last customer call, arose out of and in course of employment, and that death was not occasioned solely by intoxication. *Phoenix Assurance Co. of N.Y.* v. *T. Britton, Deputy Commissioner etc.* (1961, 289 F. 2d 784, 110 U.S. App. D.C. 118).

18.50. Employers duty

It was responsibility of employer to deny liability for compensation and medical benefits if it knew that claimant was not employee and to notify carrier accordingly so that compensation payments would not be started, and where employer did not do so, carrier had no duty to require formal hearing before starting compensation payments, and its failure to do so could not affect its right to recover premiums based on such payments. *Gilbert Slaughterers, Inc.* v. *United States Fidelity and Guaranty Co.* (D.C. Mun. App. 1962, 183 A. 2d 560).

Insurer's record containing computation of premiums due under policy was, under Federal Shop Book Rule, admissible in evidence in its action to recover premiums from insured. *Id.*

23. Exclusiveness of remedy

Workmen's compensation law was exclusive remedy of employee against employer for injuries sustained while employee was being driven home by another employee's husband, in accordance with arrangement made by employer. *M. H. Shreve* v. *Hot Shoppes, Inc., et ano.* (1961, 292 F. 2d 761, 110 U.S. App. D.C. 268).

46. Questions of law

Applicability of workmen's compensation law is question of law, for court, which erred in submitting question to jury. *M. H. Shreve* v. *Hot Shoppes, Inc., et ano.* (1961, 292 F. 2d 761, 110 U.S. App. D.C. 268).

50. Review

Scope of review of findings of deputy commissioner is narrow. *United Painters & Decorators et al.* v. *T. Britton, Deputy Commissioner etc.* (1962, 301 F. 2d 560, 112 U.S. App. D.C. 236).

61. Widow

Common-law marriage is recognized in District of Columbia. *E. Matthews* v. *T. Britton, Deputy Commissioner etc.* (1962, 303 F. 2d 408, 112 U.S. App. D.C. 397).

If parties agreed to be husband and wife in ignorance of impediment to lawful matrimony, removal of impediment results in common-law marriage between parties if they have continued to cohabit and live together as husband and wife; the same result obtains even if parties have knowledge of impediment at time that they agree to be married. *Id.*

If man and woman agree to be married before impediment was removed and continued thereafter to cohabit and live together as husband and wife, a common-law union between man and woman was effected when woman's prior spouse was awarded divorce. *Id.*

TITLE 38.—LIENS

Chapter 1.—MECHANICS, MATERIALMEN, AND CONTRACTORS

§ 38–101. Mechanic's lien.

NOTES TO DECISIONS

3.50. Owner's rights

Subcontractor who filed mechanic's lien for value of certain equipment he installed recognized that property owner's right to immediate possession of such equipment was superior to his own. *National Brick and Supply Co. Inc.* v. *W. E. Baylor et al., Trustees etc.; A. Grunstein etc.* v. *W. E. Baylor et al., Trustees etc.* (1962, 299 F. 2d 454, 112 U.S. App. D.C. 73)

Contract for making alterations and additions to church building did not authorize contractor or subcontractor to remove and not replace materials where progress payment had been made in reliance on presence of such equipment. *Id.*

§ 38–103. Subcontractor.

NOTES TO DECISIONS

1.50. Contractor paid in full

Mechanic's lienors were not entitled to satisfy their liens out of sums which owner had paid prime contractor before liens were filed and before owner learned that prime contractor had abandoned contract. *National Brick and Supply Co. Inc.* v. *W. E. Baylor et al., Trustees etc.; A. Grunstein etc.* v. *W. E. Baylor et al., Trustees etc.* (1962, 299 F. 2d 454, 112 U.S. App. D.C. 73).

5.50. Subcontractor's rights

Where subcontractor had filed mechanic's lien for value of equipment he had replaced, his subsequent removal of such equipment was tortious, and in absence of showing why owner could not enforce right to require subcontractor to replace such equipment or pay damages, amount paid by owner for having him replace equipment was not deductible from unpaid balance which was due prime contractor and in which other subcontractors who had filed mechanic's liens were entitled to share. *National Brick and Supply Co. Inc.* v. *W. E. Baylor et al., Trustees etc.; A. Grunstein etc.* v. *W. E. Bayler et al., Trustees etc.* (1962, 299 F. 2d 454, 112 U.S. App. D.C. 73).

§ 38–104. Conditions.

NOTES TO DECISIONS

1. Lienholder's rights

Payments made by owner to other subcontractors through general contractor, after plaintiff-subcontractor's filing of lien, were considered payments to general contractor, within statute requiring owner to withhold such payment in favor of lienholder. *J. C. Spencer* v. *Old Stein Grill et al.* (1961, 194 F. Supp. 274).

§ 38–106. Owner's duty.

NOTES TO DECISIONS

1. Contractor paid in full

Mechanic's lienors were not entitled to satisfy their liens out of sums which owner had paid prime contractor before liens were filed and before owner learned that prime contractor had abandoned contract. *National Brick and Supply Co., Inc.* v. *W. E. Baylor et al., Trustees etc.; A. Grunstein etc.* v. *W. E. Baylor et al., Trustees etc.* (1962, 299 F. 2d 454, 112 U.S. App. D.C. 73).

4. Subcontractor's rights

Where subcontractor had filed mechanic's lien for value of equipment he had replaced, his subsequent removal of such equipment was tortious, and in absence of showing why owner could not enforce right to require subcontractor to replace such equipment or pay damages, amount paid by owner for having him replace equipment was not deductible from unpaid balance which was due prime contractor and in which other subcontractors who had filed mechanic's liens were entitled to share. *National Brick and Supply Co. Inc.* v. *W. E. Baylor et al., Trustees etc.; A. Grunstein etc.* v. *W. E. Baylor et al., Trustees etc.* (1962, 299 F. 2d 454, 112 U.S. App. D.C. 73).

Payments made by owner to other subcontractors through general contractor, after plaintiff-subcontractor's filing of lien, were considered payments to general contractor, within statute requiring owner to withhold such payment in favor of lienholder. *J. C. Spencer* v. *Old Stein Grill et al.* (1961, 194 F. Supp. 274).

§ 38–107. Subcontractor entitled to know terms of contract.

NOTES TO DECISIONS

1. Subcontractor's knowledge of terms

Subcontractor was chargeable with notice of terms of general contract. *National Brick and Supply Co. Inc.* v. *W. E. Baylor et al., Trustees etc.; A. Grunstein etc.* v. *W. E. Baylor et al., Trustees etc.* (1962, 299 F. 2d 454, 112 U.S. App. D.C. 73).

§ 38–124. Artisans lien.

NOTES TO DECISIONS

1. Enforcement in Municipal Court

Municipal Court for the District of Columbia had jurisdiction of action to enforce artisan's lien, notwithstanding that lien was enforced according to due course of proceedings in equity and that Municipal Court had no general equity jurisdiction, since action was essentially one to recover debt that did not exceed $3,000. *N. Villacres* v. *E. G. Haddad et ano.* (D.C. Mun. App. 1962, 184 A. 2d 634).

Statute on liens of mechanics or artisans restates common-law lien and provides a means of enforcing it. *Id.*

§ 38–126. Enforcement by bill in equity.

NOTES TO DECISIONS

1. Enforcement in Municipal Court

Municipal Court for the District of Columbia had jurisdiction of action to enforce artisan's lien, notwithstanding that lien was enforced according to due course of proceedings in equity and that Municipal Court had no general equity jurisdiction, since action was essentially one to recover debt that did not exceed $3,000. *N. Villacres* v. *E. G. Haddad et ano.* (D.C. Mun. App. 1962, 184 A. 2d 634).

Statute on liens of mechanics or artisans restates common-law lien and provides a means of enforcing it. *Id.*

§ 40–301. Operators' permits—Application—Examination—Periods for which issued—Fee—Lost permits—Age requirements—Provisions affecting personnel of armed forces of United States and foreign nations—Contents of permits—Possession of operator—Operation without permit.

(a) * * *

* * * * *

(2) The Commissioners or their designated agent may, upon application and the payment of a fee of $2, issue a learner's permit, valid for a period of sixty days, to any applicant for a motor vehicle operator's permit, sixteen years of age or over, who has successfully passed all parts of the examination other than the driving demonstration test. Such permit shall entitle the permittee, while having such permit in his immediate possession, to operate a passenger motor vehicle, used solely for purposes of pleasure and not for compensation, when accompanied by the holder of a valid motor vehicle operator's permit who is occupying a seat beside such permittee.

* * * * *

(Amended Oct. 3, 1962, 76 Stat. 710, Pub. L. 87–737, § 1.)

AMENDMENTS

1962—Act Oct. 3, 1962, increased the fee for learner's permits from $1 to $2.

Chapter 3.—OPERATORS' PERMITS

§ 40–302. Revocation or suspension of operators' permits—Procedure—New permit after revocation—Nonresidents—Penalty.

NOTES TO DECISIONS

Operating vehicle after revocation 6
"Operator" defined 7

6. Operating vehicle after revocation

Although operating permit would have been restored to driver had he promptly applied for restoration at end of suspension period, driver who drove vehicle thereafter without obtaining official restoration was guilty of driving vehicle while operating privilege was suspended. *J. L. Brown* v. *District of Columbia* (D.C. Mun. App. 1961, 170 A. 2d 925).

7. "Operator" defined

Evidence supported finding that defendant, who had been seen behind wheel manipulating automobile's controls after collision had occurred, and who was charged with driving while permit was revoked, was "operator" of vehicle within statute providing penalty for driving while permit is revoked. *D. W. Jackson, Jr.* v. *District of Columbia* (D.C. Mun. App. 1962, 180 A. 2d 885).

Chapter 4.—MOTOR VEHICLE SAFETY RESPONSIBILITY

§ 40–424. Operator deemed to be agent of owner.

NOTES TO DECISIONS

Evidence overcoming presumption 11
Questions of fact 21
Unauthorized use 24

11. Evidence overcoming presumption

Statutory presumption that vehicle was driven with owner's consent continues only until there is credible evidence to contrary, and ceases when there is uncontradicted proof that automobile was not at time being used with owner's permission. *E. M. Jones, Sr.* v. *J. Halun* (1961, 296 F. 2d 597, 111 U.S. App. D.C. 340).

21. Questions of fact

Whether automobile owner whose keys were removed while he was asleep at a home where he had gone with one who drove his automobile in collision had given permission to him to use automobile was question for trier. *H. M. Hancock et ano.* v. *C. L. Morris* (D.C. Mun. App. 1961, 173 A. 2d 922).

24. Unauthorized use

Evidence was insufficient to present question for jury as to whether owner of automobile could be held liable under Financial Responsibility Act for injuries sustained in collision when automobile was being driven by companion of owner's son and it appeared that owner had forbidden son to let anyone else drive automobile. *E. M. Jones, Sr.* v. *J. Halun* (1961, 296 F. 2d 597, 111 U.S. App. D.C. 340).

§ 40–464. Discharge in bankruptcy.

NOTES TO DECISIONS

1. Restatement of operator's permit

Plaintiff was not entitled to reinstatement of his motor vehicle operator's permit or motor vehicle registration privileges where he failed to satisfy judgment obtained against him arising out of operation of a motor vehicle, and fact judgments were not revived after expiration of statute of limitations and were discharged in bankruptcy, did not entitle plaintiff to renewal of such privileges. *G A. Le* v. *G. A. England et al* (1962, 206 F. Supp. 957).

Chapter 5.—PUBLIC-OWNED VEHICLES

§ 40–503. Section 40–502 made applicable to District of Columbia.

REPEATED

1962—Oct. 23, 1962, 76 Stat. 1154, Pub. L. 87–867, § 10.

USE OF PUBLICLY OWNED VEHICLES

All motor-propelled passenger-carrying vehicles (including watercraft) owned by the District of Columbia shall be operated and utilized in conformity with section 16 of the act of August 2, 1946 (5 U.S.C. 77, 78), and shall be under the direction and control of the Commissioners, who may from time to time alter or change the assignment for use thereof, or direct the alteration of interchangeable use of any of the same by officers and employees of the District, except as otherwise provided in this act. "Official purposes" shall not apply to the Commissioners of the District of Columbia or in cases of officers and employees the character of whose duties makes such transportation necessary, but only as to such latter cases when the same is approved by the Commissioners. (Sept. 21, 1961, 75 Stat. 564, Pub. L. 87–265, § 10.)

REFERENCE IN TEXT

Section 77 of Title 5, U S.C., was repealed by act June 30, 1949, 64 Stat. 590, and is now covered by section 491, Title 40, U.S.C.

90003 O—63——13

Chapter 6.—REGULATION OF TRAFFIC

§ 40–603. Commissioners authorized to make regulations—Department of Vehicles and Traffic—Director — Congressional tags — Titling — Joint board—Arterial and boulevard highways—Commissioners may prescribe penalties—Publication of regulations — Signs on highways — Prosecutions—Excise tax imposed for issuance of motor vehicle title certificates.

(a) The Commissioners of the District of Columbia are authorized and empowered to make, modify, repeal, and enforce usual and reasonable traffic rules and regulations relating to vehicles, and rules and regulations concerning the control of traffic, the registration of motor vehicles, and the issuance, suspension, and revocation of operators' permits and the suspension and revocation of operating privileges, including rules and regulations assessing reasonable fees to reimburse the District for the cost of restoring suspended or revoked operators' permits and privileges, such fees not to exceed the amount of $5 per restoration and to exercise any power or perform any duty imposed on the director of traffic, which office is hereby abolished; and in the administration of the above powers and authority the commissioners may exercise the same through such officers or agents of the District as the commissioners may designate: *Provided,* That no member of the Metropolitan Police Department may be empowered to perform any function under this chapter other than in the enforcement thereof.

* * * * *

(As amended, Oct. 3, 1962, 76 Stat. 742, Pub. L. 87–745, § 1.)

AMENDMENTS

1962—Act Oct. 3, 1962, amended subsection (a) by striking out the words "issuance and revocation of operator's permits" and inserting in lieu thereof the words beginning with "issuance and ending with $5 per restoration".

§ 40–604a. Parking of automobiles in Municipal Center—Regulations—Violations and penalties.

CROSS REFERENCE

Deposit of fees in special account in highway fund, see section 40–808.

§ 40–609. Fleeing from scene of accident—Driving under the influence of liquor or drugs.

NOTES TO DECISIONS

4. Evidence

Evidence tending to identify defendant as driver of striking vehicle was insufficient to sustain conviction for colliding with another vehicle and leaving after colliding. *J. R. Peterson* v. *District of Columbia* (D.C. Mun. App. 1961, 171 A. 2d 95).

Conviction for a criminal offense requires more support than a mere possibility that accused was person who committed the crime. *Id.*

Evidence sustained conviction for driving an automobile while under influence of intoxicating liquor. *F. H. Kruse* v. *District of Columbia* (D.C. Mun. App. 1961, 171 A. 2d 752).

Where two or more inferences can reasonably be deduced from the facts, a reviewing court is without power to substitute its deductions for those of trial court. *Id.*

§ 40–616. Parking meters.

CROSS REFERENCE

Deposit of fees in special account in highway fund, see section 40–808.

Chapter 8.—REGULATION OF PARKING

§ 40–801. Short title.

This chapter may be cited as the "District of Columbia Motor Vehicle Parking Facility Act of 1942." (Feb. 16, 1942, 56 Stat. 93, ch. 76, § 10, redesignated as section 11, by act Mar. 2, 1962, 76 Stat. 18, Pub. L. 87–408, § 603.)

AMENDMENT

1962—Section 603, act Mar. 2, 1962, 76 Stat. 18, Pub. L. 87–408, renumbered section 10 of act February 1942, 56 Stat. 93, ch. 76, as section 11.

§ 40–808. Disposition of fees and moneys collected.

All fees and other moneys collected under this chapter, including all fees collected pursuant to section 40–616 and section 40–604a, and all moneys derived from the sale or assignment of any property, real or personal, shall be deposited in a special account within the highway fund established in section 47–1901. Moneys deposited in such special account shall be available, first to defray the expenses of enforcing laws, rules, and regulations relating to the parking of vehicles in the District of Columbia; second, to defray the expenses of operating parking facilities under this chapter; third, for the acquisition, creation, and operation of parking facilities exempt from section 40–809a; and fourth, for the maintenance of highways within the District of Columbia, including the removal of snow and ice therefrom, and the purchase or rental of necessary equipment. (Feb. 16, 1942, 56 Stat. 93, ch. 76, § 7; Dec. 16, 1944, 58 Stat. 809, ch. 595, § 3; Mar. 2, 1962, 76 Stat. 18, Pub. L. 87–408, § 601.)

AMENDMENT

1962—Act Mar. 2, 1962, amended section to read as above set out. For provisions of section before this amendment, see main volume of Code.

TRANSFER OF MONEYS TO HIGHWAY FUND

Section 604, act Mar. 2, 1962, 76 Stat. 19, Pub. L. 87–408, provided as follows: "All fees and other moneys which have been deposited in the special account of the Treasury of the United States before the date of enactment of this title [amending sections 40–801, 40–808, 40–809 and adding section 40–809a] to the credit of the District of Columbia in accordance with section 40–808 are hereby transferred to the special account established in the highway fund by the amendment made to section 40–808 by section 601 of this title, and such funds shall be available for the purposes provided in such amendment to such section 40–808."

§ 40–809. Appropriations—Employment of director—Salaries of employees—Salaries of members of agency.

The Commissioners shall include in their annual budget such amounts as may be required from the highway fund established in section 47–1901, for the purpose of carrying out the provisions of this chapter.

* * * * *

(Mar. 2, 1962, 76 Stat. 18, Pub. L. 87–408, § 602.)

AMENDMENTS

1962—Act Mar. 2, 1962, amended first sentence of section to read as above set out.

§ 40–809a. Acquisition of new parking facilities prohibited—Operation and expansion of existing facilities—Exempt facilities.

Notwithstanding any provision of this chapter, no real property shall be acquired under the authority

of this chapter for use as a parking facility on or after the date of enactment of this section, and the Commissioners and the agency are authorized to operate and maintain only those parking facilities which have been established prior to the date of enactment of this section. No such existing parking facility shall be expanded or otherwise altered except to the extent as may be necessary to permit its continued operation in the same manner as it was being operated immediately before the date of enactment of this section. This section shall not apply to (1) any parking facility which is limited to use by officers and employees of the Governments of the United States or of the District of Columbia by reason of their employment by any such Government, (2) any fringe parking facility, and (3) any parking facility located on property of the District of Columbia beneath any elevated portion of a public highway. (Feb. 16, 1942, 56 Stat. 93, ch. 76, § 10, as added Mar. 2, 1962, 76 Stat. 19, Pub. L. 87–408, § 603.)

§ 40–810. Parking restrictions—Vehicles impounded—Penalties.

NOTES TO DECISIONS

1. Liability for impounding and ticketing vehicles

Complaint alleging that, though plaintiff had obtained from his landlord equal and coextensive parking privileges in allegedly private alley adjoining business premises involved with a defendant, such defendant had engaged in wrongful or illegal action against plaintiff's parking, resulting in ticketing and impounding of his automobile, was sufficient as against such defendant. *J. C. Gager* v. *"Bob Seidel" etc.* (1962, 300 F. 2d 727, 112 U.S. App. D.C. 135).

Record as a whole disclosed that plaintiff suing police officers and others for damages resulting from alleged conspiracy with respect to ticketing and impounding his automobile which he repeatedly parked in what he alleged was a private alley failed to state cause against police officers. *Id.*

Chapter 9.—INSTALLMENT SALES OF MOTOR VEHICLES

§ 40–902. Maximum finance charges—Computation—Proportionate adjustments—Investigation of economic conditions to determine finance charges—Regulations—Classification of parties—Waiver.

NOTES TO DECISIONS

1. Insurance regulations

Statute authorizing District Commissioners to make regulations specifying types and maximum amount of insurance which may be required of automobile buyer to protect seller from loss on installment contract, authorized Commissioners to specify what charges may be included in installment contracts. *Franklin Investment Co., Inc.* v. *W. N. Tobriner etc.* (1961, 296 F. 2d 451, 111 U.S. App. D.C. 329)

TITLE 41. PARTNERSHIPS

Chapter 1.—LIMITED PARTNERSHIPS

§§ 41–101 to 41–109. Repealed. Sept. 28, 1962, 76 Stat. 662, Pub. L. 87–716, § 31.

Section 41–101 of act Mar. 3, 1901, 31 Stat. 1415, ch. 854, § 1498, dealt with number of partners and purposes for which limited partnerships could be formed.

Section 41–102, same act, section 1499, dealt with composition of and contributions to the partnership.

Section 41–103, same act, § 1500, specified the maximum number of special partners.

Section 41–104, same act, § 1501, dealt with liability of special partners.

Section 41–105, same act, § 1502, dealt with execution and composition of certificate.

Section 41–106, same act, § 1503, dealt with acknowledgment and recording of certificate.

Section 41–107, same act, § 1504, dealt with filing of affidavit as to contributions by special partners.

Section 41–108, same act, § 1505, provided that no partnership was formed until certificate and affidavit was filed.

Section 41–109, same act, § 1506, dealt with liability for false statements in certificate and affidavit.

§ 41–110. Repealed. June 16, 1953, 67 Stat. 62, ch. 117, § 1.

Section 41–110 of act Mar. 3, 1901, 31 Stat. 1416, ch. 854, § 1507, required publication of the terms of partnership in two newspapers.

§ 41–111. Repealed. Sept. 28, 1962, 76 Stat. 662, Pub. L. 87–716, § 31.

Section 41–111, same act § 1508, and act June 16, 1953, 67 Stat. 62, ch. 117, § 1, dealt with the effect of failure to acknowledge and record certificate.

§ 41–112. Repealed. June 16, 1953, 67 Stat. 62, ch. 117, § 1.

Section 41–112 of act Mar. 3, 1901, 31 Stat. 1416, ch. 854, § 1508, related to affidavit as to publication by creditors or publishers of newspaper.

§ 41–113 to 41–131. Repealed. Sept. 28, 1962, 76 Stat. 662, Pub. L. 87–716, § 31.

Section 41–113 of act Mar. 3, 1901, 31 Stat. 146, ch. 854, § 1510, dealt with renewal of partnerships.

Section 41–114, same act, § 1511, dealt with effect of failure to properly renew partnership.

Section 41–115, same act, § 1512, dealt with acts constituting a dissolution.

Section 41–116, same act, § 1513, provided for the effect of acts performed after dissolution.

Section 41–117, same act, § 1514, dealt with names to be used by partnership.

Section 41–118, same act, § 1515, dealt with necessary defendants in suit against partnership.

Section 41–119, same act, § 1516, dealt with effect of use of special partner's name in firm name.

Section 41–120, same act, § 1517, provided that general partners should transact the business of the partnership.

Section 41–121, same act, § 1518, dealt with the subject of withdrawal of capital contributions.

Section 41–122, same act, § 1519, dealt with reduction of capital.

Section 41–123, same act, § 1520, dealt with the subject of preferential assignments of partnership property.

Section 41–124, same act, § 1521, dealt with liability of special partner for violation of sections 41–122 and 41–123.

Section 41–125, same act, § 1522, provided that creditors should have preference over special partner.

Section 41–126, same act, § 1523, dealt with suits by and against the partnership.

Section 41–127, same act, § 1524, dealt with effect of joinder of special partners in suits against the partnership.

Section 41–128, same act, § 1525, dealt with new suits against special partners after recovery of judgment against general partner.

Section 41–129, same act, § 1526, provided that judgment in suits mentioned in sections 41–127 and 41–128 constituted prima facie evidence of amount due by partnerships.

Section 41–130, same act, § 1527, dealt with voluntary dissolutions.

Section 41–131, same act, § 1528, dealt with liability of general partners.

Savings Provisions

Sections 41–10 to 109, 41–111, and 41–113 to 41–131 were repealed by act of Sept. 28, 1962, except that they were continued in force as to existing limited partnerships.

Chapter 3. UNIFORM PARTNERSHIPS

Part I
Preliminary Provisions

Part II
Nature of Partnership

Part III
Relations of Partners to Persons Dealing With Partnership

Part IV
Relations of Partners to One Another

Part V
Property Rights of a Partner

PART VI
DISSOLUTION AND WINDING UP

PART I

PRELIMINARY PROVISIONS

§ 41–301. Definition of terms.

In this chapter, "court" includes every court and judge having jurisdiction in the case.

"Business" includes every trade, occupation, or profession.

"Person" includes individuals, partnerships, corporations, and other associations.

"Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any law of the District of Columbia.

"Conveyance" includes every assignment, lease, mortgage, or encumbrance.

"Real property" includes land and any interest or estate in land. (Sept. 27, 1962, 76 Stat. 636, Pub. L. 87–709, § 2.)

EFFECTIVE DATE

Enacting clause preceding section 1 of act Sept. 27, 1962, Pub. L. 87–709, 76 Stat. 636, provides: "That this Act [set out as Title 41, chap. 3, herein] to provide for the formation of partnerships in the District of Columbia and to make uniform the law with respect thereto shall be in effect in the District of Columbia on and after the date of the enactment of this Act" [Sept. 27, 1962].

POPULAR NAME

Section 1 of act Sept. 27, 1962, provides that: "This Act may be cited as the 'Uniform Partnership Act'."

§ 41–302. Interpretation of knowledge and notice.

(1) A person has "knowledge" of a fact within the meaning of this chapter not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances show bad faith.

(2) A person has "notice" of a fact within the meaning of this chapter when the person who claims the benefit of the notice—

(a) states the fact to such person, or

(b) delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

(Sept. 28, 1962, 76 Stat. 636, Pub. L. 87–709, § 3.)

§ 41–303. Rules of construction.

(1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) The law of estoppel shall apply under this chapter.

(3) The law of agency shall apply under this chapter.

(4) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those jurisdictions which enact it.

(5) This chapter shall not be construed so as to impair the obligations of any contract existing when the chapter goes into effect, nor to affect any action or proceedings begun or right accrued before this chapter takes effect. (Sept. 27, 1962, 76 Stat. 636, Pub. L. 87–709, § 4.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–304. Rules for cases not provided for in this chapter.

In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern. (Sept. 27, 1962, 76 Stat. 636, Pub. L. 87–709, § 5.)

PART II

NATURE OF A PARTNERSHIP

§ 41–305. Partnership defined.

(1) A partnership is an association of two or more persons to carry on as coowners a business for profit.

(2) But any association formed under any other statute of this jurisdiction, or any statute adopted by authority, other than the authority of this jurisdiction is not a partnership under this chapter, unless such association would have been a partnership in this jurisdiction prior to the adoption of this chapter; but this chapter shall apply to limited partnerships except insofar as the statutes of the District of Columbia relating to such partnerships are inconsistent herewith. (Sept. 27, 1962, 76 Stat. 637, Pub. L. 87–709, § 6.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–306. Rules for determining the existence of a partnership.

In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by section 41–316 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference

shall be drawn if such profits were received in payment—

(a) as a debt by installments or otherwise,

(b) as wages of an employee or rent to a landlord,

(c) as an annuity to a widow or representative of a deceased partner,

(d) as interest on a loan, though the amount of payment varies with the profits of the business,

(e) as the consideration for the sale of the goodwill of a business or other property by installments or otherwise.

(Sept. 27, 1962, 76 Stat. 637, Pub. L. 87–709, § 7.)

Effective Date

See note to section 41–301.

§ 41–307. Partnership property.

(1) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears. (Sept. 27, 1962, 76 Stat. 637, Pub. L. 87–709, § 8.)

Effective Date

See note to section 41–301.

Part III

Relations of Partners to Persons Dealing With Partnership

§ 41–308. Partner agent of partnership as to partnership business.

(1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partners so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to—

(a) assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,

(b) dispose of the goodwill of the business,

(c) do any other act which would make it impossible to carry on the ordinary business of a partnership,

(d) confess a judgment.

(e) submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction. (Sept. 27, 1962, 76 Stat. 637, Pub. L. 87–709, § 9.)

Effective Date

See note to section 40–301.

§ 41–309. Conveyance of real property of the partnership.

(1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partners' act binds the partnership under the provisions of paragraph (1) of section 41–308, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph (1) of section 41–308.

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of paragraph (1) of section 41–308, unless the purchaser or his assignee is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph (1) of section 41–308.

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property. (Sept. 27, 1962, 76 Stat. 638, Pub. L. 87–709, § 10.)

Effective Date

See note to section 41–301.

§ 41–310. Partnership bound by admission of partner.

An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this chapter is evidence against the partnership. (Sept. 27, 1962, 76 Stat. 638, Pub. L. 87–709, § 11.)

§ 41–311. Partnership charged with knowledge of or notice to partner.

Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquiring while a partner or then present to his mind, and the

knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner. (Sept. 27, 1962, 76 Stat. 638, Pub. L. 87–709, § 12.)

Effective Date

See note to section 41–301.

§ 41–312. Partnership bound by partner's wrongful act.

Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his copartners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act. (Sept. 27, 1962, 76 Stat. 638, Pub. L. 87–709, § 13.)

Effective Date

See note to section 41–301.

§ 41–313. Partnership bound by partner's breach of trust.

The partnership is bound to make good the loss:

(a) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(b) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership. (Sept. 27, 1962, 76 Stat. 639, Pub. L. 87–709, § 14.)

Effective Date

See note to section 41–301.

§ 41–314. Nature of partner's liability.

All partners are liable—

(a) jointly and severally for everything chargeable to the partnership under sections 41–312 and 41–313,

(b) jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

(Sept. 27, 1962, 76 Stat. 639, Pub. L. 87–709, § 14.)

§ 41–315. Partner by estoppel.

(1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership.

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation. (Sept. 27, 1962, 76 Stat. 639, Pub. L. 87–709, § 16.)

Effective Date

See note to section 41–301.

§ 41–316. Liability of incoming partner.

A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property. (Sept. 27, 1962, 76 Stat. 639, Pub. L. 87–709, § 17.)

Part IV

Relations of Partners to One Another

§ 41–317. Rules determining rights and duties of partners.

The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(a) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(b) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business or for the preservation of its business or property.

(c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(d) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(e) All partners have equal rights in the management and conduct of the partnership business.

(f) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(g) No person can become a member of a partnership without the consent of all the partners.

(h) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners. (Sept. 27, 1962, 76 Stat. 639, Pub. L. 87–709, § 18.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–318. Partnership books.

The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them. (Sept. 27, 1962, 76 Stat. 640, Pub. L. 87–709, § 19.)

§ 41–319. Duty of partners to render information.

Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability. (Sept. 27, 1962, 76 Stat. 640, Pub. L. 87–709, § 20.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–320. Partner accountable as a fiduciary.

(1) Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(2) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner. (Sept. 27, 1962, 76 Stat. 640, Pub. L. 87–709, § 21.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–321. Right to an account.

Any partner shall have the right to a formal account as to partnership affairs—

(a) If he is wrongfully excluded from the partnership business or possession of its property by his copartners,

(b) If the right exists under the terms of any agreement,

(c) As provided by section 41–320.

(d) Whenever other circumstances render it just and reasonable. (Sept. 27, 1962, 76 Stat. 640, Pub. L. 87–709, § 22.)

PART V

PROPERTY RIGHTS OF A PARTNER

§ 41–322. Continuation of partnership beyond fixed term.

(1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership. (Sept. 27, 1962, 76 Stat. 640, Pub. L. 87–709, § 23.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–323. Extent of property rights of a partner.

The property rights of a partner are (1) his rights in specific partnership property, (2) his interest in the partnership, and (3) his right to participate in the management. (Sept. 27, 1962, 76 Stat. 641, Pub. L. 87–709, § 24.)

§ 41–324. Nature of a partner's right in specific partnership property.

(1) A partner is coowner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin.

(Sept. 27, 1962, 76 Stat. 641, Pub. L. 87–709, § 25.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–325. Nature of partner's interest in the partnership.

A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property. (Sept. 27, 1962, 76 Stat. 641, Pub. L. 87–709, § 26.)

§ 41–326. Assignment of partner's interest.

(1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the

absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners. (Sept. 27, 1962, 76 Stat. 641, Pub. L. 87–709, § 27.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–327. Partner's interest subject to charging order.

(1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts, and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in this chapter shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership. (Sept. 27, 1962, 76 Stat. 641, Pub. L. 87–709, § 28.)

EFFECTIVE DATE

See note to section 41–301.

PART VI

DISSOLUTION AND WINDING UP

§ 41–328. Dissolution defined.

The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business. (Sept. 27, 1962, 76 Stat. 642, Pub. L. 87–709, § 29.)

§ 41–329. Partnership not terminated by dissolution.

On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed. (Sept. 27, 1962, 76 Stat. 642, Pub. L. 87–709, § 30.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–330. Causes of dissolution.

Dissolution is caused: (1) Without violation of the agreement between the partners—

(a) by the termination of the definite term or particular undertaking specified in the agreement,

(b) by the express will of any partner when no definite term or particular undertaking is specified,

(c) by the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking,

(d) by the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

(2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) By the death of any partner;

(5) By the bankruptcy of any partner or the partnership;

(6) By decree of court under section 41–331. (Sept. 27, 1962, 76 Stat. 642, Pub. L. 87–709, § 31.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–331. Dissolution by decree of court.

(1) On application by or for a partner the court shall decree a dissolution whenever—

(a) a partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind,

(b) a partner becomes in any other way incapable of performing his part of the partnership contract,

(c) a partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,

(d) a partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,

(e) the business of the partnership can only be carried on at a loss,

(f) other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under sections 41–326 and 41–327—

(a) after the termination of the specified term or particular undertaking,

(b) at any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

(Sept. 27, 1962, 76 Stat. 642, Pub. L. 87–709, § 32.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–332. General effect of dissolution on authority of partner.

Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership—

(1) with respect to the partners—

(a) when the dissolution is not by the act, bankruptcy or death of a partner; or

(b) when the dissolution is by such act, bankruptcy or death of a partner, in cases where section 41–333 so requires;

(2) with respect to persons not partners, as declared in section 41–334. (Sept. 27, 1962, 76 Stat. 643, Pub. L. 87–709, § 33.)

Effective Date

See note to section 41–301.

§ 41–333. Right of partner to contribution from copartners after dissolution.

Where the dissolution is caused by the act, death, or bankruptcy of a partner, each partner is liable to his copartners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless—

(a) the dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, or

(b) the dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

(Sept. 27, 1962, 76 Stat. 643, Pub. L. 87–709, § 34.)

Effective Date

See note to section 41–301.

§ 41–334. Power of partner to bind partnership to third persons after dissolution.

(1) After dissolution a partner can bind the partnership except as provided in paragraph (3)—

(a) by any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution;

(b) by any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction,

(I) had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or

(II) though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissoluition, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(2) The liability of a partner under paragraph (1)(b) shall be satisfied out of partnership assets alone when such partner has been prior to dissolution—

(a) unknown as a partner to the person with whom the contract is made; and

(b) so far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution—

(a) where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; or

(b) where the partner has become bankrupt; or

(c) where the partner has no authority to wind up partnership affairs; except by a transaction with one who,

(I) had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or

(II) had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority had not been advertised in the manner provided for advertising the fact of dissolution in paragraph (1)(b)(II).

(4) Nothing in this section shall affect the liability under section 41–315 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business. (Sept. 27, 1962, 76 Stat. 643, Pub. L. 87–709, § 35.)

Effective Date

See note to section 41–301.

§ 41–335. Effect of dissolution on partner's existing liability.

(1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts. (Sept. 27, 1962, 76 Stat. 644, Pub. L. 87–709, § 36.)

Effective Date

See note to section 41–301.

§ 41–336. Right to wind up.

Unless otherwise agreed the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs: *Provided, however,* That any partner, his legal representative or his assignee, upon cause

shown, may obtain winding up by the court. (Sept. 27, 1962, 76 Stat. 644, Pub. L. 87–709, § 37.)

§ 41–337. Rights of partners to application of partnership property.

(1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his copartner and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under section 41–335(2), he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have—

(I) all the rights specified in paragraph (1) of this section, and

(II) the right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under clause (2)(a)(II) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have—

(I) if the business is not continued under the provisions of paragraph (2)(b) all the rights of a partner under paragraph (1), subject to clause (2)(a)(II) of this section,

(II) if the business is continued under paragraph (2)(b) of this section, the right as against his copartners and all claiming through them in respect of their interests in the partnership to have the value of his interest in the partnership, less any damages caused to his copartners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the goodwill of the business shall not be considered.

(Sept. 27, 1962, 76 Stat. 644, Pub. L. 87–709, § 38.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–338. Rights where partnership is dissolved for fraud or misrepresentation.

Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled—

(a) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and

(b) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(c) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership. (Sept. 27, 1962, 76 Stat. 645, Pub. L. 87–709, § 39.)

EFFECTIVE DATE

See note to section 41–301.

§ 41–339. Rules for distribution.

In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(a) The assets of the partnership are—

(I) the partnership property,

(II) the contributions of the partners necessary for the payment of all the liabilities specified in clause (b) of this paragraph.

(b) The liabilities of the partnership shall rank in order of payment, as follows:

(I) Those owing to creditors other than partners,

(II) Those owing to partners other than for capital and profits,

(III) Those owing to partners in respect of capital,

(IV) Those owing to partners in respect of profits.

(c) The assets shall be applied in the order of their declaration in clause (a) of this paragraph to the satisfaction of the liabilities.

(d) The partners shall contribute, as provided by section 41–317(a), the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(e) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in clause (d) of this paragraph.

(f) Any partner or his legal representative shall have the right to enforce the contributions specified in clause (d) of this paragraph, to the extent of the amount which he has paid in excess of his share of the liability.

(g) The individual property of a deceased partner shall be liable for the contributions specified in clause (d) of this paragraph.

(h) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(i) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

(I) Those owing to separate creditors.

(II) Those owing to partnership creditors,

(III) Those owing to partners by way of contribution.

(Sept. 27, 1962, 76 Stat. 646, Pub. L. 87–709, § 40.)

Effective Date

See note to section 41–301.

§ 41–340. Liability of persons continuing the business in certain cases.

(1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liqiudation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in paragraphs (1) and (2) of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of section 41–337(2)(b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section, the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in the section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership. (Sept. 27, 1962, 76 Stat. 646, Pub. L. 87–709, § 41.)

Effective Date

See note to section 41–301.

§ 41–341. Rights of retiring or estate of deceased partner when the business is continued.

When any partner retires or dies, and the business is continued under any of the conditions set forth in section 41–340 (1), (2), (3), (5), (6), or section 41–337(2)(b), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative, as against such persons or partnership, may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved parnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; provided that the creditors, or the representative of the retired or deceased creditors of the dissolved partnership as against the separate partner, shall have priority on any claim arising under this section, as provided by section 41–340(8). (Sept. 27, 1962, 76 Stat. 647, Pub. L. 87–709, § 42.)

Effective Date

See note to section 41–301.

§ 41–342. Accrual of right to account.

The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary. (Sept. 27, 1962, 76 Stat. 648, Pub. L. 87–709, § 43.)

Effective Date

See note to section 41–301.

Chapter 4.—UNIFORM LIMITED PARTNERSHIPS

§ 41–401. Limited partnership defined.

A limited partnership is a partnership formed by two or more persons under the provisions of section 41–402, having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by the obligations of the partnership. (Sept. 28, 1962, 76 Stat. 655, Pub. L. 87–716, § 1.)

EFFECTIVE DATE

Enacting clause preceding section 1 act Sept. 28, 1962, provides as follows: "That this act [this chapter] to provide for the formation of limited partnerships in the District of Columbia and to make uniform the law with respect thereto, shall be in effect in the District of Columbia on and after the date of the enactment of this Act." [Sept. 28, 1962.]

POPULAR NAME

Section 27 of act Sept. 28, 1962, provides as follows: "This Act [this chapter] may be cited as the "Uniform Limited Partnership Act."

§ 41–402. Formation.

(1) Two or more persons desiring to form a limited partnership shall—

(a) sign and swear to a certificate, which shall state—

I. the name of the partnership,

II. the character of the business,

III. the location of the principal place of business,

IV. the name and place of residence of each member; general and limited partners being respectively designated,

V. the term for which the partnership is to exist,

VI. the amount of cash and a description of and the agreed value of the other property contributed by each limited partner,

VII. the additional contribution, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they shall be made,

VIII. the time, if agreed upon, when the contribution of each limited partner is to be returned,

IX. the share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution,

X. the right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution.

XI. the right, if given, of the partners to admit additional limited partners,

XII. the right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority,

XIII. the right, if given, of the remaining general partner or partners to continue the business on the death, retirement, or insanity of a general partner, and

XIV. the right, if given, of a limited partner to demand and receive property other than cash in return for his contribution;

(b) file for record the certificate in the Office of the Recorder of Deeds of the District of Columbia.

(2) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of paragraph (1). (Sept. 28, 1962, 76 Stat. 655, Pub. I. 87–716, § 2.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–403. Business which may be carried on.

A limited partnership may carry on any business which a partnership without limited partners may carry on. (Sept. 28, 1962, 76 Stat. 656, Pub. L. 87–716, § 3.)

§ 41–404. Character of limited partner's contribution.

The contributions of a limited partner may be cash or other property, but not services. (Sept. 28, 1962, 76 Stat. 656, Pub. L. 87–716, § 4.)

§ 41–405. A name not to contain surname of limited partner—Exceptions.

(1) The surname of a limited partner shall not appear in the partnership name, unless—

(a) It is also the surname of a general partner, or

(b) prior to the time when the limited partner became such the business had been carried on under a name in which his surname appeared.

(2) A limited partner whose name appears in a partnership name contrary to the provisions of paragraph (1) is liable as a general partner to partnership creditors who extend credit to the partnership without actual knowledge that he is

not a general partner. (Sept. 28, 1962, 76 Stat. 656, Pub. L. 87–716, § 5.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–406. Liability for false statements in certificate.

If the certificate contains a false statement, one who suffers loss by reliance on such statement may hold liable any party to the certificate who knew the statement to be false—

(a) at the time he signed the certificate, or

(b) subsequently, but within a sufficient time before the statement was relied upon to enable him to cancel or amend the certificate, or to file a petition for its cancellation or amendment as provided in section 41–425(3).

(Sept. 28, 1962, 76 Stat. 656, Pub. L. 87–716, § 6.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–407. Limited partner not liable to creditors.

A limited partner shall not become liable as a general partner unless, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business. (Sept. 28, 1962, 76 Stat. 656, Pub. L. 87–716, § 7.)

§ 41–408. Admission of additional limited partners.

After the formation of a limited partnership, additional limited partners may be admitted upon filing an amendment to the original certificate in accordance with the requirements of section 41–425. (Sept. 28, 1962, 76 Stat. 656, Pub. L. 87–716, § 8.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–409. Rights, powers, and liabilities of a general partner.

(1) A general partner shall have all the rights and powers and be subect to all the restrictions and liabilities of a partner in a partnership without limited partners, except that without the written consent or ratification of the specific act by all the limited partners, a general partner or all of the general partners have no authority to—

(a) do any act in contravention of the certificate,

(b) do any act which would make it impossible to carry on the ordinary business of the partnership,

(c) confess a judgment against the partnership,

(d) possess partnership property, or assign their rights in specific partnership property, for other than a partnership purpose,

(e) admit a person as a general partner,

(f) admit a person as a limited partner, unless the right so to do is given in the certificate,

(g) continue the business with partnership property on the death, retirement, or insanity of a general partner, unless the right so to do is given in the certificate.

(Sept. 28, 1962, 76 Stat. 656, Pub. L. 87–716, § 9.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–410. Rights of a limited partner.

(1) A limited partner shall have the same rights as a general partner to—

(a) have the partnership books kept at a principal place of business of the partnership, and at all times to inspect and copy any of them,

(b) have on demand true and full information of all things affecting the partnership, and a formal account of partnership affairs whenever circumstances render it just and reasonable, and

(c) have dissolution and winding up by decree of court.

(2) A limited partner shall have the right to receive a share of the profits or other compensation by way of income, and to the return of his contribution as provided in sections 41–415 and 41–416. (Sept. 28, 1962, 76 Stat. 657, Pub. L. 87–716, § 10.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–411. Status of a person erroneously believing himself a limited partner.

A person who has contributed to the capital of a business conducted by a person or partnership erroneously believing that he has become a limited partner in a limited partnership is not, by reason of this exercise of the rights of a limited partner, a general partner with the person or in the partnership carrying on the business, or bound by the obligations of such person or partnership: *Provided,* That on ascertaining the mistake he promptly renounces his interest in the profits of the business, or other compensation by way of income. (Sept. 28, 1962, 76 Stat. 657, Pub. L. 87–716, § 11.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–412. One person both general and limited partner.

(1) A person may be a general partner and a limited partner in the same partnership at the same time.

(2) A person who is a general, and also at the same time a limited, partner shall have all the rights and powers and be subject to all the restrictions of a general partner, except that, in respect to his contribution, he shall have the rights against the other members which he would have had if he were not also a general partner. (Sept. 28, 1962, 76 Stat. 657, Pub. L. 87–716, § 12.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–413. Loans and other business transactions with limited partner.

(1) A limited partner also may loan money to and transact other business with the partnership, and, unless he is also a general partner, receive on account of resulting claims against the partnership, with general creditors, a pro rata share of the assets. No limited partner shall in respect to any such claim—

(a) receive or hold as collateral security any partnership property, or

(b) receive from a general partner or the partnership any payment, conveyance, or release from liability, if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons not claiming as general or limited partners.

(2) The receiving of collateral security, or a payment, conveyance, or release in violation of the provisions of paragraph (1) is a fraud on the creditors of the partnership. (Sept. 28, 1962, 76 Stat. 657, Pub. L. 87–716, § 13.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–414. Relation of limited partners inter se.

Where there are several limited partners the members may agree that one or more of the limited partners shall have a priority over other limited partners as to the return of their contributions, as to their compensation by way of income, or as to any other matter. If such an agreement is made it shall be stated in the certificate, and in the absence of such a statement all the limited partners shall stand upon equal footing. (Sept. 28, 1962, 76 Stat. 658, Pub. L. 87–716, § 14.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–415. Compensation of limited partner.

A limited partner may receive from the partnership the share of the profits or the compensation by way of income stipulated for in the certificate: *Provided,* That after such payment is made, whether from the property of the partnership or that of a general partner, the partnership assets are in excess of all liabilities of the partnership except liabilities to limited partners on account of their contributions and to general partners. (Sept. 28, 1962, 76 Stat. 658, Pub. L. 87–716, § 15.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–416. Withdrawal or reduction of limited partner's contribution.

(1) A limited partner shall not receive from a general partner or out of partnership property any part of his contribution until—

(a) all liabilities of the partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains property of the partnership sufficient to pay them,

(b) the consent of all members is had, unless the return of the contribution may be rightfully demanded under the provisions of paragraph (2), and

(c) the certificate is canceled or so amended as to set forth the withdrawal or reduction.

(2) Subject to the provisions of paragraph (1) a limited partner may rightfully demand the return of his contribution—

(a) on the dissolution of a partnership, or

(b) when the date specified in the certificate for its return has arrived, or

(c) after he has given six months' notice in writing to all other members, if no time is specified in the certificate either for the return of the contribution or for the dissolution of the partnership.

(3) In the absence of any statement in the certificate to the contrary or the consent of all members, a limited partner, irrespective of the nature of his contribution, has only the right to demand and receive cash in return for his contribution.

(4) A limited partner may have the partnership dissolved and its affairs wound up when—

(a) he rightfully but unsuccessfully demands the return of his contribution, or

(b) the other liabilities of the partnership have not been paid, or the partnership property is insufficient for their payment as required by paragraph (1a) and the limited partner would otherwise be entitled to the return of his contribution.

(Sept. 28, 1962, 76 Stat. 658, Pub. L. 87–716, § 16.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–417. Liability of limited partner to partnership.

(1) A limited partner is liable to the partnership—

(a) for the difference between his contribution as actually made and that stated in the certificate as having been made, and

(b) for any unpaid contribution which he agreed in the certificate to make in the future at the time and on the conditions stated in the certificate.

(2) A limited partner holds as trustee for the partnership.

(a) specific property stated in the certificate as contributed by him, but which was not contributed or which has been wrongfully returned, and

(b) money or other property wrongfully paid or conveyed to him on account of his contribution.

(3) The liabilities of a limited partner as set forth in this section can be waived or compromised only by the consent of all members; but a waiver or compromise shall not affect the right of a creditor of a partnership, who extended credit or whose claim arose after the filing and before a cancellation or amendment of the certificate, to enforce such liabilities.

(4) When a contributor has rightfully received the return in whole or in part of the capital of his contribution, he is nevertheless liable to the partnership for any sum, not in excess of such return with interest, necessary to discharge its liabilities to all creditors who extended credit or whose claims arose before such return. (Sept. 28, 1962, 76 Stat. 658, Pub. L. 87–716, § 17.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–418. Nature of limited partner's interest in partnership.

A limited partner's interest in the partnership is personal property. (Sept. 28, 1962, 76 Stat. 659, Pub. L. 87–716, § 18.)

§ 41–419. Assignment of limited partner's interest.

(1) A limited partner's interest is assignable.

(2) A substituted limited partner is a person admitted to all the rights of a limited partner who has died or has assigned his interest in a partnership.

(3) An assignee, who does not become a substituted limited partner, has no right to require any

information or account of the partnership transactions or to inspect the partnership books; he is only entitled to receive the share of the profits or other compensation by way of income, or the return of his contribution, to which his assignor would otherwise be entitled.

(4) An assignee shall have the right to become a substituted limited partner if all the members (except the assignor) consent thereto or if the assignor, being thereunto empowered by the certificate, gives the assignee that right.

(5) An assignee becomes a substituted limited partner when the certificate is appropriately amended in accordance with section 41–425.

(6) The substituted limited partner has all the rights and powers, and is subject to all the restrictions and liabilities of his assignor, except those liabilities of which he was ignorant at the time he became a limited partner and which could not be ascertained from the certificate.

(7) The substitution of the assignee as a limited partner does not release the assignor from liability to the partnership under sections 41–406 and 41–417. (Sept. 28, 1962, 76 Stat. 659, Pub. L. 87–716, § 19.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–420. Effect of retirement, death, or insanity of a general partner.

The retirement, death, or insanity of a general partner dissolves the partnership, unless the business is continued by the remaining general partners—

(a) Under a right so to do stated in the certificate, or

(b) With the consent of all members. (Sept. 28, 1962, 76 Stat. 659, Pub. L. 87–716, § 20.)

§ 41–421. Death of limited partner.

(1) On the death of a limited partner his executor or administrator shall have all the rights of a limited partner for the purpose of settling his estate, and such power as the deceased had to constitute his assignee a substituted limited partner.

(2) The estate of a deceased limited partner shall be liable for all his liabilities as a limited partner. (Sept. 28, 1962, 76 Stat. 660, Pub. L. 87–716, § 21.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–422. Rights of creditors of limited partner.

(1) On due application to a court of competent jurisdiction by any judgment creditor of a limited partner, the court may charge the interest of the indebted limited partner with payment of the unsatisfied amount of the judgment debt; and may appoint a receiver, and make all other orders, directions, and inquiries which the circumstances of the case may require.

(2) The interest may be redeemed with the separate property of any general partner, but may not be redeemed with partnership property.

(3) The remedies conferred by paragraph (1) shall not be deemed exclusive of others which may exist.

(4) Nothing in this chapter shall be held to deprive a limited partner of his statutory exemption. (Sept. 28, 1962, 76 Stat. 660, Pub. L. 87–716, § 22.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–423. Distribution of assets.

(1) In settling accounts after dissolution the liabilities of the partnership shall be entitled to payment in the following order:

(a) Those to creditors, in the order of priority as provided by law, except those to limited partners on account of their contributions, and to general partners.

(b) Those to limited partners in respect to their share of the profits and other compensation by way of income on their contributions.

(c) Those to limited partners in respect to the capital of their contributions.

(d) Those to general partners other than for capital and profits.

(e) Those to general partners in respect to profits.

(f) Those to general partners in respect to capital.

(2) Subject to any statement in the certificate or to subsequent agreement, limited partners share in the partnership assets in respect to their claims for capital, and in respect to their claims for profits or for compensation by way of income on their contributions respectively, in proportion to the respective amounts of such claims. (Sept. 28, 1962, 76 Stat. 660, Pub. L. 87–716, § 23.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–424. When certificate shall be canceled or amended.

(1) The certificate shall be canceled when the partnership is dissolved or all limited partners cease to be such.

(2) A certificate shall be amended when—

(a) there is a change in the name of the partnership or in the amount or character of the contribution of any limited partner,

(b) a person is substituted as a limited partner,

(c) an additional limited partner is admitted,

(d) a person is admitted as a general partner,

(e) a general partner retires, dies, or becomes insane, and the business is continued under section 41–420,

(f) there is a change in the character of the business of the partnership,

(g) there is a false or erroneous statement in the certificate,

(h) there is a change in the time as stated in the certificate for the dissolution of the partnership or for the return of a contribution,

(i) a time is fixed for the dissolution of the partnership, or the return of a contribution, no time having been specified in the certificate, or

(j) the members desire to make a change in any other statement in the certificate in order that it shall accurately represent the agreement between them.

(Sept. 28, 1962, 76 Stat. 660, Pub. L. 87–716, § 24.)

EFFECTIVE DATE

See note to section 41–401.

§ 41–425. Requirements for amendment and for cancellation of certificate.

(1) The writing to amend a certificate shall—

(a) conform to the requirements of section 41–402(1)(a) as far as necessary to set forth clearly the change in the certificate which it is desired to make, and

(b) be signed and sworn to by all members, and an amendment substituting a limited partner or adding a limited or general partner shall be signed also by the member to be substituted or added, and when a limited partner is to be substituted, the amendment shall also be signed by the assigning limited partner.

(2) The writing to cancel a certificate shall be signed by all members.

(3) A person desiring the cancellation or amendment of a certificate, if any person designated in paragraphs (1) and (2) as a person who must execute the writing refuses to do so, may petition the United States District Court for the District of Columbia to direct a cancellation or amendment thereof.

(4) If the court finds that the petitioner has a right to have the writing executed by a person who refuses to do so, it shall order the Recorder of Deeds of the District of Columbia where the certificate is recorded to record the cancellation or amendment of the certificate; and where the certificate is to be amended, the court shall also cause to be filed for record in said office a certified copy of its decree setting forth the amendment.

(5) A certificate is amended or canceled when there is filed for record in the office of the Recorder of Deeds of the District of Columbia where the certificate is recorded—

(a) a writing in accordance with the provisions of paragraph (1) or (2), or

(b) a certified copy of the order of court in accordance with the provisions of paragraph (4).

(6) After the certificate is duly amended in acordance with this section, the amended certificate shall thereafter be for all purposes the certificate provided for by this chapter. (Sept. 28, 1962, 76 Stat. 661, Pub. L. 87–716, § 25.)

Effective Date

See note to section 41–401.

§ 41–426. Parties to action.

A contributor, unless he is a general partner, is not a proper party to proceedings by or against a partnership, except where the object is to enforce a limited partner's right against or liability to the partnership. (Sept. 28, 1962, 76 Stat. 661, Pub. L. 87–716, § 26.)

Effective Date

See note to section 41–401.

§ 41–427. Rules of construction.

(1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those States which enact it.

(3) This chapter shall not be so construed as to impair the obligations of any contract existing when the chapter goes into effect, nor to affect any action on proceedings begun or right accured before this chapter takes effect. (Sept. 28, 1962, 76 Stat. 662, Pub. L. 87–716, § 28.)

Effective Date

See note to section 41–401.

§ 41–428. Rules for cases not provided for in this chapter.

In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern. (Sept. 28, 1962, 76 Stat. 662, Pub. L. 87–716, § 29.)

Effective Date

See note to section 41–401.

§ 41–429. Provisions for existing limited partnerships.

(1) A limited partnership formed under Title 41, chapter 1, prior to the adoption of this chapter, may become a limited partnership under this chapter by complying with the provisions of section 41–402: *Provided,* That the certificate sets forth—

(a) the amount of the original contribution of each limited partner, and the time when the contribution was made, and

(b) that the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of its limited partners.

(2) A limited partnership formed under Title 41, chapter 1, prior to the adoption of this chapter, until or unless it becomes a limited partnership under this chapter, shall continue to be governed by the provisions of sections 41–101 to 41–109, 41–111 and 41–113 to 41–131, except that such partnership shall not be renewed unless so provided in the original agreement. (Sept. 28, 1962, 76 Stat. 662, Pub. L. 87–716, § 30.)

Effective Date

See note to section 41–401.

Chapter 3.—SERVICE, VALUATION, ACCOUNTS

§ 43–310. Commission to prescribe forms of books and records.

NOTES TO DECISIONS

Accounting procedures, regulation of 1
Arbitrary or capricious 2

1. Accounting procedures, regulations of

The statutes confer broad discretion upon the Public Utilities Commission in regulating the accounting procedures of the utilities company under its jurisdiction. *D.C. Transit System, Inc.* v. *Public Utilities Commission, etc.* (1961, 292 F. 2d 734, 110 U.S. App. D.C. 241).

2. Arbitrary or capricious

Order of the Public Utilities Commission directing transit company to transfer a sum from the proceeds of the sale of property from its earned surplus account to three different accounts was not unreasonable, arbitrary, or capricious. *D.C. Transit System, Inc.* v. *Public Utilities Commission, etc.* (1961, 292 F. 2d 734, 110 U.S. App. D.C. 241).

§ 43–314. Commission to provide for examination and audit of accounts—Allocation of items to accounts—Authority of agents, accountants, and examiners.

NOTES TO DECISIONS

Accounting procedures, regulation of 1
Arbitrary or capricious 2

1. Accounting procedures, regulation of

The statutes confer broad discretion upon the Public Utilities Commission in regulating the accounting procedures of the utilities company under its jurisdiction. *D.C. Transit System, Inc.* v. *Public Utilities Commission, etc.* (1961, 292 F. 2d 734, 110 U.S. App. D.C. 241).

2. Arbitrary or capricious

Order of the Public Utilities Commission directing transit company to transfer a sum from the proceeds of the sale of property from its earned surplus account to three different accounts was not unreasonable, arbitrary, or capricious. *D.C. Transit System, Inc.* v. *Public Utilities Commission, etc.* (1961, 292 F. 2d 734, 110 U.S. App. D.C. 241).

Chapter 7.—ORDERS AND COURT PROCEEDINGS

§ 43–705. Appeal to District Court from certain orders—Precedence over other civil causes—Proceeding when additional evidence proper—Statement to accompany decision—Subsequent appeals—Commission not liable for costs or damages.

NOTES TO DECISIONS

1. Persons affected

District Court should have found that one who filed petition to intervene in proceedings before Public Utilities Commission of District of Columbia with respect to bus and streetcar fares was transit rider and entitled to appeal to District Court from Commission's order, where he made sworn statement in proceedings before Commission that he was regular commuter on carrier's vehicles. *L. N. Bebchick & L. S. Goodman* v. *Public Utilities Commission etc.* (1961, 287 F. 2d 337, 109 U.S. App. D.C. 298).

Transit riders on buses and streetcars of carrier were entitled to appeal to District Court from order of Public Utilities Commission of District of Columbia raising cash fare for single trip from 20 cents to 25 cents, though order did not increase token fare of five for $1 or 20 cents each. *Id.*

District Court should have found that person, who filed petition in proceedings in Public Utilities Commission of District of Columbia concerning bus and streetcar fares for reconsideration of order fixing fares, and who alleged therein that he was a transit rider, and who filed affidavit stating that he was occasional and casual customer and rider of buses and streetcars of carrier, was transit rider and entitled to appeal to District Court from Commission's order. *Id.*

§ 43–706. Appeal limited to questions of law.

NOTES TO DECISIONS

9. Review, limitations of

Function of the Court of Appeals in reviewing the Public Utilities Commission's orders and decisions is limited to questions of law including constitutional questions and the Commission's findings of fact are conclusive unless it appears that the findings are unreasonable, arbitrary, or capricious. *D.C. Transit System, Inc.* v. *Public Utilities Commission etc.* (1961, 292 F. 2d 734, 110 U.S. App. D.C. 241).

Chapter 15.—WATER SUPPLY, ASSESSMENTS, AND RATES

§ 43–1520c. Commissioners to have authority to fix water rates.

(a) The Commissioners are authorized, in their discretion, to fix from time to time, the rates charged by the District for water and water services furnished by the District water supply system. Such rates so fixed, whether involving one or more changes in rate, or one or more changes in the basic quantity of water to be supplied at a given rate, or the combined effect of both such changes, shall not, in any event, result in increasing by more than 33⅓ per centum the rates in effect on the day preceding the effective date of this section. In computing the charge for the consumption of water in excess of the minimum amount allowed for metered service, if such charge is for a period beginning prior to so fixing such rates and ending thereafter, the charge for such excess consumption shall be prorated on a monthly basis, in accordance with the rates prevailing in the respective periods. Nothing in this title shall be construed to modify the provisions of section 43–1530 relating to the delivery of water from the District water supply system to the Washington Suburban Sanitary Commission.

(b) Notwithstanding the provisions of subsection (a) of this section, the Commissioners are authorized, in their discretion, to increase the rates charged by the District for water and water services furnished by the District water supply system: *Provided,* That no such increase shall exceed 25 per centum of the rate in effect on January 1, 1961. (May 18, 1954, 68 Stat. 101, ch. 218, title I, § 101; Mar. 2, 1962, 76 Stat. 17, Pub. L. 87–408, § 501.)

AMENDMENT

1962—Section 501, act Mar. 2, 1962, amended section by inserting (a) at the beginning of the section and adding subsection (b) thereto.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 504, act Mar. 2, 1962, provided that amendments made to this section and sections 43–1606 and 43–1607 "shall become effective on the first day of the third month which begins after the date of enactment of this Act."

§ 43–1521c. Lien for water charges.

NOTES TO DECISIONS

Police power 1
Retroactive lien 2

1. Police power

Act of Congress governing District of Columbia water system and providing that District with continuing lien for water charges upon any land and improvements thereon to which water service has been furnished represent valid exercise of police power. *R. Friedman* v. *District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 562).

2. Retroactive lien

Statute giving District of Columbia continuing lien for water charges upon any land and improvements thereon to which water or water service has been furnished did not operate to create retroactive lien for water furnished prior to its effective date or to compel owner to pay obligation of earlier owner for water charges before its effective date. *R. Friedman* v. *District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 562).

Chapter 16.—SANITARY SEWAGE WORKS

§ 43–1606. Methods of determination of sanitary sewer service charges.

AMENDMENT

1962—Section 502, act Mar. 2, 1962, 76 Stat. 18, Pub. L. 87–408, amended section by striking "60 per centum" wherever same appeared in this section and substituted in lieu thereof "75 per centum".

EFFECTIVE DATE OF 1962 AMENDMENT

See note to section 43–1520c.

§ 43–1607. Persons obligated to pay sanitary sewer service charges.

* * * * *

(c) If at any time, or from time to time, the Commissioners shall change the established sanitary sewer service charge, the sanitary sewer service charge for any period beginning prior to any such change and ending thereafter shall be prorated on a monthly basis, in accordance with the established charges prevailing in the respective periods. (Mar. 2, 1962, 76 Stat. 18, Pub. L. 87–408, § 503.)

AMENDMENT

1962—Section 503, act Mar. 2, 1962, added subsection (c).

EFFECTIVE DATE OF 1962 AMENDMENT

See note to section 43–1520c.

§ 44–214a. Fares for schoolchildren not over 18 years of age—Formula for adjusting and payment of fare subsidy.

Notwithstanding provisions of the joint resolution entitled "Joint resolution to authorize the merger of street-railway corporations operating in the District of Columbia, and for other purposes", approved January 14, 1933, and the provisions of the unification agreement incorporated therein, and notwithstanding the provisions of the Act entitled "An Act or provide for the transportation of schoolchildren in the District of Columbia at a reduced fare", approved February 25, 1931, the Public Utilities Commission of the District of Columbia shall fix the rate of fare for transportation by street railway and bus of schoolchildren going to and from public, parochial, or like schools in the District of Columbia at not more than one-half the cash fare established from time to time by the Public Utilities Commission for regular route transportation within the District of Columbia, and shall establish rules and regulations governing the use thereof. No fares for schoolchildren shall be available to persons over eighteen years of age.

If, after giving effect to any and all motor vehicle fuel tax and real estate tax exemptions, the net operating income from mass transportation operations in the District of Columbia of any common carrier required to furnish transportation to schoolchildren at a reduced fare under this section for any twelve-month period ending August 31 is less than the rate of return established by the regulatory commission having jurisdiction in such carrier's last rate case, net after all taxes properly chargeable to transportation operations, including but not limited to income taxes, on its gross operating revenues in the District of Columbia, exclusive of any school fare subsidy, then the Washington Metropolitan Area Transit Commission shall, as soon as practicable after such August 31, certify to the Commissioners of the District of Columbia or their designated agent with respect to such twelve-month period: (1) an amount which is the difference between the total of all reduced fares paid to each such carrier by schoolchildren in accordance with this section and the amount which would have been paid to each such carrier if such fares had been paid at the lowest adult fare established by the Commission for regular route transportation; and (2) an amount which is the amount by which each such carrier's net operating income from mass transportation operations in the District of Columbia is less than such rate of return established by the appropriate regulatory commission in the carrier's last rate case, after giving effect to the aforesaid tax exemptions, exclusive of any such school fare subsidy. Upon such certification, the Board of Commissioners of the District of Columbia shall pay to each such carrier an amount equal to the amount certified pursuant to clause (1) thereof; except that in no event shall such amount exceed the amount certified pursuant to clause (2) hereof. (Aug. 9, 1955, 69 Stat. 616, ch. 680, § 1, June 28, 1962, 76 Stat. 113, Pub. L. 87–507, § 1(2).)

REFERENCES IN TEXT

Act Jan. 14, 1933, referred to in text, was act Jan. 14, 1933, 47 Stat. 759, ch. 10, and was superseded by this section.

Act Feb. 25, 1931, referred to in text, was act Feb. 25, 1931, 46 Stat. 1419, ch. 302, and was superseded by this section.

AMENDMENT

1962—Act June 28, 1962, amended act Aug. 9, 1955, by adding a new section thereto designated as section 2. This new section is set out as the second paragraph to this section.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 2, act June 28, 1962, provided as follows: "The amendment made by the first section of this Act [Act June 28, 1962, set out as par. 2 of this section] shall be applicable with respect to the twelve-month period ending on August 31 next following the date of enactment of this Act [June 28, 1962], and to each twelve-month period thereafter."

TITLE 45.—REAL PROPERTY

Chapter 7.—RECORDER OF DEEDS

SUBCHAPTER I.—RECORDATION TAX ON DEEDS

SUBCHAPTER I.—RECORDATION TAX ON DEEDS

§ 47–721. Definitions.

When used in this chapter, unless otherwise required by the context—

(a) The word "District" means the District of Columbia.

(b) The word "Commissioners" means the Commissioners of the District of Columbia, or their duly authorized agents or representatives.

(c) The word "deed" means any document, instrument, or writing (other than a will and other than a lease), regardless of where made, executed, or delivered whereby any real property in the District of Columbia, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(d) The words "real property" mean every estate or right, legal or equitable, present or future, vested or contingent in lands, tenements, or hereditaments located in whole or in part within the District.

(e) The word "consideration", except as otherwise provided in section 45–724 of this subchapter, means the price or amount actually paid, or required to be paid, for real property including any mortgages, liens, or encumbrances thereon.

(f) The word "person" means an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, any individual acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

(g) The word "deficiency" as used in this subchapter means the amount or amounts by which the tax imposed by this subchapter as determined by the Commissioners exceeds the amount shown as the tax upon the return of the person or persons liable for the payment thereof.

(h) The word "taxpayer" means any person required by this title to pay a tax, or file a return. (Mar. 2, 1962, 76 Stat. 11, Pub. L. 87–408, § 301.)

EFFECTIVE DATE

Section 325, act Mar. 2, 1962, provided as follows: "The provisions of this title [classified to sections 45–721 to 45–744] shall take effect on the first day of the first month which begins on or after the sixtieth day after the enactment of this Act."

SHORT TITLE

Section 326, act Mar. 2, 1962, provided as follows: "This title [classified to sections 45–721 to 45–744] may be cited as the 'District of Columbia Real Estate Deed Recordation Tax Act'."

TRANSFER OF FUNCTIONS

Organization Order No. 130.—Office of Recorder of Deeds, Real Estate Deed Recordation Tax

Organization Ord. No. 130, 62–756, Apr. 26, 1962, ordered:

Effective May 1, 1962, and pursuant to the authority contained in Title III of Public Law 87–408, 87th Congress, approved March 2, 1962, the Recorder of Deeds, D.C., is hereby appointed agent of the Commissioners of the District of Columbia for the purpose of administering, to the extent herein provided, the provisions of said Title III of Public Law 87–408, 87th Congress. The functions and duties to be performed by the Recorder of Deeds, D.C., who may delegate them to other officials and employees of his office, shall be as follows:

(a) Receives and examines all returns required to be filed with any deed submitted for recordation. Forwards all returns to Finance Officer upon completion of processing by Office of Recorder of Deeds.

(b) Maintains for purposes of Office of Recorder of Deeds such staff, records, and accounts as may be required or necessary in connection with the recordation of deeds and the receiving and accounting for taxes applicable to such deeds.

(c) Receives all taxes applicable to deeds presented and accepted for recordation, except such taxes as are assessed as a deficiency and collected by the Finance Officer, and records the amount thereof on the deed.

(d) Except where the Finance Officer has waived as to a party to a deed the requirement for the filing of a re-

turn by such party, or has extended the time for filing of a return by a party, rejects for recordation any deed for which a return is required to be filed if such deed is not accompanied by a return in proper form, executed by all the parties to the deed.

(e) Except where the Finance Officer has extended the time for payment of the tax applicable to a deed submitted for recordation, or has accepted security for the payment of the tax, rejects for recordation any deed for which a tax is required to be paid, if the full amount of the applicable tax is not tendered with the deed.

(f) Checks returns for arithmetical accuracy in the computation of the amount of tax due. Where an arithmetical computation, as made on a return, is erroneous, may, in his discretion, recompute the tax and, upon payment of the tax as recomputed, accept for recordation the deed to which the return applies, noting on the return the action taken.

(g) Accounts for and transmits to the Finance Officer in accordance with established procedures, all taxes collected upon recordation of deeds.

(h) Except as otherwise modified pursuant to this order, performs such duties and functions and carries out such procedures relating to the recordation of deeds as are now or may hereafter be prescribed for the conduct of the Office of the Recorder of Deeds, D.C.

(i) Except as to deeds which are exempt from tax and which may be recorded without the filing of a return, refers to the Finance Officer for review when requested by him in writing, any deed for which a return is required to be filed and for which exemption from tax is claimed, and records such deed only upon notification by the Finance Officer that the deed is exempt from tax or, if such deed is determined to be taxable records deed only upon payment of applicable tax.

(j) Administers oaths and affirmations to parties to deeds when required in connection with a return or other document presented to him for purposes of recordation of a deed.

§ 45–722. Exemptions—Enumeration of deeds exempt from tax.

The following deeds shall be exempt from the tax imposed by this chapter:

1. Deeds recorded prior to the effective date of the enactment of this chapter.

2. Deeds to property acquired by the United States of America or the District of Columbia.

3. Deeds to property acquired by an institution, organization, corporation, association, or government (other than the United States of America or the District of Columbia) entitled to exemption from real property taxation under sections 47–801a to 47–801f, which property was acquired solely for a purpose or purposes which would entitle such property to exemption under said sections 47–801a to 47–801f: *Provided,* That a return, under oath, showing the purpose or purposes for which such property was acquired, shall accompany the deed at the time of its offer for recordation.

4. Deeds to property acquired by an institution, organization, corporation, or association entitled to exemption from real property taxation by special Act of Congress, which property was acquired solely for a purpose or purposes for which such special exemption was granted: *Provided,* That a return, under oath, showing the purpose or purposes for which such property was acquired, shall accompany the deed at the time of its offer for recordation.

5. Deeds which secure a debt or other obligation.

6. Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded.

7. Deeds between husband and wife, or parent and child, without actual consideration therefor.

8. Tax deeds.

9. Deeds of release of property which is security for a debt or other obligation. (Mar. 2, 1962, 76 Stat. 11, Pub. L. 87–408, § 302.)

Effective Date

See note to section 45–721.

§ 45–723. Imposition of tax—Rate—Returns—Liability for tax.

(a) There is hereby imposed on each deed at the time is is submitted to the Commissioners for recordation a tax at the rate of one-half of 1 per centum of the consideration for such deed: *Provided,* That in any case where application of the rate of tax to the consideration for a deed results in a total tax of less than $1 the tax shall be $1.

(b) Each such deed shall be accompanied by a return under oath in such form as the Commissioners may prescribe, executed by all the parties to the deed, setting forth the consideration for the deed, the amount of tax payable, and such other information as the Commissioners may require.

(c) The parties to a deed which is submitted to the Commissioners for recordation shall be jointly and severally liable for payment of the taxes imposed by this section: *Provided,* That neither the United States nor the District of Columbia shall be subject to such liability.

(d) The Commissioners are authorized—

(1) to prescribe by regulation for reasonable extensions of time for the filing of the return required by subsection (b) of this section; and

(2) to waive as to any party to a deed the requirement for the filing of a return by such party whenever it shall be determined by the Commissioners that a return cannot be filed: *Provided,* That any waiver granted by the Commissioners to a party shall not, unless specifically authorized, be deemed to be a waiver as to any other party. Any waiver made pursuant to this subsection shall not affect the requirements of subsection (c) of this section.

(Mar. 2, 1962, 76 Stat. 12, Pub. L. 87–408, § 303.)

Effective Date

See note to section 45–721.

§ 45–724. Absence of consideration—Basis for commutation of tax.

Where no price or amount is paid or required to be paid for real property or where such price or amount is nominal, the consideration for the deed to such property shall, for purposes of the tax imposed by this subchapter, be construed to be the fair market value of the real property, and the tax shall be based upon such fair market value. In any such case, the return required to be filed with the deed shall contain such information as to the fair market value of the real property as the Commissioners shall require. Whenever, in the opinion of the Commissioners, a return does not contain sufficient information as to the fair market value of such real property, the Commissioners are authorized to make a determination thereof from the best information available. (Mar. 2, 1962, 76 Stat. 12, Pub. L. 87–408, § 304.)

Effective Date

See note to section 45–721.

§ 45–725. Investigation by Commissioners to determine correctness of returns—Production of books and records—Examination of witnesses—Service of summons — Compelling attendance — Punishment for disobedience.

The Commissioners, for the purpose of ascertaining the correctness of any return, statement, affidavit, or other document filed pursuant to the provisions of this subchapter or pursuant to any regulations of the Commissioners promulgated hereunder, or for the purpose of ascertaining the correctness of any payment of the tax imposed by this subchapter, or the consideration for any deed upon which a tax is imposed, are authorized to examine any books, papers, records, or memorandums of any person bearing upon such matters and may summon any person to appear and produce books, records, papers, or memorandums pertaining thereto and to give testimony or answer interrogatories under oath respecting the same, and the Commissioners shall have power to administer oaths to such person or persons. Such summons may be served by any member of the Metropolitan Police Department. If any person having been personally summoned shall neglect or refuse to obey the summons issued as herein provided then, and in that event, the Commissioners may report that fact to the United States District Court for the District of Columbia, or one of the judges thereof, and said court or any judge thereof hereby is empowered to compel obedience to such summons to the same extent as witnesses may be compelled to obey the subpenas of that court. Any person is custody or control of any books, papers, records, or memorandums bearing upon the matters to which reference is herein made who shall refuse to permit the examination by the Commissioners or any person designated by them of any such books, papers, records, or memorandums, or who shall obstruct or hinder the Commissioners or any person designated by them in the examination of any books, papers, records, or memorandums, shall upon conviction thereof be subject to the penalties provided in this subchapter. (Mar. 2, 1962, 76 Stat. 12, Pub. L. 87–408, § 305.)

Cross Reference

For penalty provisions see sections 45–729, 45–730(c), 45–740, 45–741.

Effective Date

See note to section 45–721.

§ 45–726. Recordation—Conditions.

Except as otherwise provided in the subchapter, no deed shall be recorded by the Commissioners until the return required by this subchapter shall have been filed, and the tax imposed by this subchapter shall have been paid. (Mar. 2, 1962, 76 Stat. 13, Pub. L. 87–408, § 306.)

Effective Date

See note to section 45–721.

§ 45–727. Presumptions and burden of proof.

For the purpose of proper administration of this subchapter and to prevent evasion of the tax hereby imposed, it shall be presumed that all deeds are taxable and the burden shall be upon the taxpayer to show that a deed is exempt from tax. (Mar. 2, 1962, 76 Stat. 13, Pub. L. 87–408, § 307.)

Effective Date

See note to section 45–721.

§ 45–728. Deficiencies in tax—Notice of determination—Protests—Hearings—Time for payment.

(a) If a deficiency in tax is determined by the Commissioners, the person liable for the payment thereof shall be notified by registered or certified mail of said determination which shall include a statement of taxes due and given a period of not less than thirty days after such notice is sent in which to file a protest with the Commissioners and show cause or reason why the deficiency should not be paid. If no protest is filed within such thirty-day period, the deficiency as determined by the Commissioners shall be final. If a protest is filed within said period of thirty days, opportunity for hearing thereon shall be granted by the Commissioners, and a final decision thereon shall be made as quickly as practicable and notice of such decision, together with a statement of taxes finally determined to be due, shall be sent by registered or certified mail to the person liable for the payment of the deficiency.

(b) Any deficiency in tax which has become final in accordance with the provisions of subsection (a) of this section shall, if no protest is filed, be due and payable within ten days after the expiration of the thirty-day period provided in subsection (a) of this section or, if a protest is filed, shall be due and payable within ten days after notice of the final decision of the Commissioners upon such protest is sent to the person liable for payment of the deficiency. (Mar. 2, 1962, 76 Stat. 13, Pub. L. 87–408, § 308.)

Effective Date

See note to section 45–721.

§ 45–729. Penalties and interest—Waiver—Interest on deficiency assessments—Extension of time for payment.

(a) In case of any failure to make and file a correct return as required by this subchapter within the time prescribed by this subchapter or prescribed by the Commissioners in pursuance of this subchapter, 5 per centum of the tax imposed by this subchapter shall be added to such tax for each month or fraction thereof that such failure continues, not to exceed 25 per centum in the aggregate, except that when a return is filed after such time and it is shown that the failure to file was due to reasonable cause and not due to neglect the Commissioners may in their discretion waive, in whole or in part, the addition to the tax provided by this subsection.

(b) The amount added to any tax under subsection (a) of this section shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of neglect.

(c) Interest upon the amount finally determined as a deficiency shall be assessed at the same time as the deficiency, and shall be collected as a part of the tax, at the rate of one-half of 1 per centum per month or portion of a month, from the date prescribed for the payment of the tax to the date the deficiency is assessed.

(d) If the time for payment of any part of a deficiency is extended, there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended at the rate of one-half of 1 per centum per month or portion of a month for the period of the extension. If a part of the deficiency the time for payment of which is so extended is not paid in full, together with all penalties and interest due thereon, prior to the expiration of the period of the extension, then interest at the rate of one-half of 1 per centum per month or portion of a month shall be added and collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(e) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(f) If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid.

(g) Where a deficiency, or any interest or additional amounts assessed in connection therewith under subsection (c), (e), or (f) is not paid in full within the time prescribed by this section, there shall be collected as part of the tax interest upon the unpaid amount at the rate of one-half of 1 per centum per month or portion of a month from the date when such unpaid amount was due until it is paid.

(h) The Commissioners are authorized at the request of the taxpayer to extend the time for payment by the taxpayer of the amount of the tax imposed by this subchapter, whether determined as a deficiency or otherwise, for a period not to exceed six months from the date prescribed for the payment of such tax. (Mar. 2, 1962, 76 Stat. 13, Pub. L. 87–408, § 309.)

Effective Date

See note to section 45–721.

§45–730. Compromise and settlement—Written agreements for settlement of tax liability—Penalties for illegal acts in connection with compromise agreements—Prosecutions.

(a) Whenever in the opinion of the Commissioners there shall arise with respect of any tax imposed under this subchapter any doubt as to the liability of the taxpayer or the collectibility of the tax for any reason whatsoever, the Commissioners may compromise such tax.

(b) The Commissioners are authorized to enter into a written agreement with any person relating to the liability of such person for payment of the tax imposed under this subchapter. Any such agreement which is approved by the Commissioners and the taxpayer involved, or his authorized agent or representative, shall be final and conclusive and—except upon a showing of fraud, malfeasance, or misrepresentation of a material fact—the case shall not be reopened as to the matters agreed upon or the agreement modified; and in any suit or proceeding relating to the tax liability of the taxpayer such agreement shall not be annulled, modified, set aside, or disregarded.

(c) Any person who, in connection with any compromise under this section or offer of such compromise or in connection with any written agreement under this section or offer to enter into any such agreement, conceals from any officer or employee of the District of Columbia any material fact relating to the tax imposed by this subchapter; destroys, mutilates, or falsifies any books, documents, or record; or makes under oath any false statements relating to the tax imposed by this subchapter shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both. All prosecutions under this section shall be brought in the municipal court of the District of Columbia, in the name of the District of Columbia, on information by the Corporation Counsel of the District of Columbia or any of his assistants. (Mar. 2, 1962, 76 Stat. 14, Pub. L. 87–408, § 310.)

Effective Date

See note to section 45–721.

§ 45–731. Compromise of penalties and adjustment of interest.

The Commissioners shall have the power for cause shown to compromise any penalty which may be imposed under the provisions of this subchapter. The Commissioners may adjust any interest, where, in their opinion, the facts in the case warrant such action. (Mar. 2, 1962, 76 Stat. 15, Pub. L. 87–408, § 311.)

Effective Date

See note to section 45–721.

§ 45–732. Limitations—Time for making assessments—Extension of time by agreement—Suspension of running of period of limitations.

(a) Except as otherwise provided in this section, the amount of any tax imposed by this subchapter shall be assessed within three years after the deed is recorded by the Commissioners and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

(b) In the case of a false or fraudulent return, with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(c) In case of a willful attempt in any manner to defeat or evade the tax imposed by this subchapter, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(d) In the case of failure to file a return, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(e) Where, before the expiration of the time prescribed in this section for the assessment of the tax imposed by this subchapter, the Commissioners and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made

before the expiration of the period previously agreed upon.

(f) The running of the period of limitations provided in this section on the making of assessments, or the collection of the tax imposed by this subchapter in any manner authorized by law, shall be suspended for any period during which the Commissioners are prohibited from making the assessment or from collecting said tax, and for ninety days thereafter: *Provided,* That in any case where a proceeding is commenced by a taxpayer in any court in connection with the tax imposed by this subchapter, the running of the period of limitations shall be suspended for the period of the pendency of such proceeding and for ninety days after the decision of the court shall have become final or, if the proceeding shall have been dismissed or otherwise disposed of, for a period of ninety days after such dismissal or other disposition. (Mar. 2, 1962, 76 Stat. 15, Pub. L. 87–408, § 312.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–733. Administration of oaths.

The Commissioners are authorized to administer oaths and affidavits in relation to any matter or proceeding conducted by them in the exercise of their powers and duties under this subchapter. (Mar. 2, 1962, 76 Stat. 15, Pub. L. 87–408, § 313.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–734. Appeal—Other remedies.

(a) Any person aggrieved by any assessment of a deficiency in tax finally determined by the Commissioners under the provisions of section 45–728 may appeal to the District of Columbia Tax Court in the same manner and to the same extent as set forth in sections 47–2403, 47–2404, 47–2407 to 47–2411, as amended and as the same may hereinafter be amended.

(b) The remedy provided in subsection (a) of this section shall not be deemed to take away from the taxpayer any remedy which he might have under any other provision of law but no suit by the taxpayer for the recovery of any part of the tax imposed shall be instituted or maintained in any court if the taxpayer has elected to file an appeal with respect to such tax, or any part thereof, in accordance with the provisions of subsection (a) of this section. (Mar. 2, 1962, 76 Stat. 15, Pub. L. 87–408, § 314.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–735. Refunds and collection.

The provisions of section 47–2413, and the provisions of section 47–312 and section 47–313 shall be applicable to the tax imposed by this title. (Mar. 2, 1962, 76 Stat. 16, Pub. L. 87–408, § 315.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–736. Stamps and other devices for collection of tax.

The Commissioners are authorized to prescribe by regulation such methods or devices, or both, including the use of a stamp or stamps, for the evidencing of payment, and the collection of the taxes imposed by this subchapter, as they may deem necessary and proper for the administration of this subchapter. (Mar. 2, 1962, 76 Stat. 16, Pub. L. 87–408, § 316.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–737. Promulgation of rules and regulations.

The Commissioners are hereby authorized to prescribe such rules and regulations as they may deem necessary to carry out the purposes of this subchapter. (Mar. 2, 1962, 76 Stat. 16, Pub. L. 87–408, § 317.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–738. Abatement.

The Commissioners are authorized to abate the unpaid portion of any tax due under the provisions of this subchapter, or any liability in respect thereof, if the Commissioners determine under rule or regulation prescribed by them that the administration and collection costs involved would not warrant collection of the amount due. (Mar. 2, 1962, 76 Stat. 16, Pub. L. 87–408.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–739. Elimination of fractional stamps or devices.

For the purpose of avoiding, in the case of any stamps or devices employed pursuant to authority of this subchapter, the issuance of stamps or the employment of devices representing fractional parts of $1, the Commissioners are authorized, in their discretion, to limit the denominations of such stamps or devices to amounts representing $1 or multiples of $1, and to prescribe further that where part of the tax due is a fraction of $1, the tax paid shall be paid to the nearest dollar. (Mar. 2, 1962, 76 Stat. 16, Pub. L. 87–408, § 319.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–740. General criminal penalty—Prosecutions for nonfelonies by corporation counsel—Prosecutions for felonies by United States attorney.

Whoever violates any provision of this subchapter for which no specific penalty is provided, or any of the rules and regulations promulgated under the authority of this subchapter, shall be subject to a fine of not more than $1,000, or to imprisonment of not more than one year, or to both such fine and imprisonment. Prosecutions for violations of this subchapter shall be on information filed in the municipal court for the District of Columbia in the name of the District of Columbia by the Corporation Counsel or any of his assistants, except for such violations as are felonies, and prosecutions for such violations as are felonies shall be by the United States attorney in and for the District of Columbia, or any of his assistants. (Mar. 2, 1962, 76 Stat. 16, Pub. L. 87–408, § 320.)

EFFECTIVE DATE

See note to section 45–721.

§ 45–741. Criminal penalty as to stamps—Illegal acts relating to stamps.

(1) Any person who, with intent to defraud, alters, forges, makes, or counterfeits any stamp, or other device prescribed under authority of this subchapter for the collection or payment of any tax imposed by this subchapter, or sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, or other device; or

(2) Fraudulently cuts, tears, or removes from any deed, parchment, paper, instrument, writing, or article, upon which any tax is imposed by this subchapter, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this subchapter; or

(3) Fraudulently uses, joins, fixes, or places to, with, or upon any deed, parchment, paper, instrument, writing, or article, upon which a tax is imposed by this subchapter,

(a) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other deed, parchment, paper, instrument, writing, or article upon which any tax is imposed by this subchapter; or

(b) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or

(c) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article; or

(4)(a) Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used; or

(b) knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(c) knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any deed, parchment, paper, instrument, writing, package, or article,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than three years, or both. (Mar. 2, 1962, 76 Stat. 16, Pub. L. 87–408, § 321.)

Effective Date

See note to section 45–721.

§ 45–742. Disposition of funds.

All moneys collected under this subchapter shall be deposited in the Treasury of the United States to the credit of the general fund of the District of Columbia. (Mar. 2, 1962, 76 Stat. 17, Pub. L. 87–408, § 322.)

Effective Date

See note to section 45–721.

§ 45–743. Separability clause.

If any provision of this subchapter, or the application thereof to any person or circumstances, is held invalid the remainder of this subchapter, and the application of such provision to other persons or circumstances, shall not be affected thereby. (Mar. 2, 1962, 76 Stat. 17, Pub. L. 87–408, § 323.)

Effective Date

See note to section 45–721.

§ 45–744. Appropriations.

There are hereby authorized to be appropriated such amounts as may be necessary for the carrying out of the provisions of this subchapter, including the use of stamps or other devices for evidencing payment of the tax imposed by this subchapter. (Mar. 2, 1962, 76 Stat. 17, Pub. L. 87–408, § 324.)

Effective Date

See note to section 45–721.

Chapter 9.—LANDLORD AND TENANT

§ 45–906. Service of notice.

NOTES TO DECISIONS

1. Generally

The same exactness is not required in the serving of a notice to quit as in the serving of a summons in a landlord and tenant action. *N. Custis* v. *S. Klein* (D.C. Mun. App. 1962, 177 A. 2d 268).

Chapter 14.—REAL ESTATE AND BUSINESS BROKERS' LICENSES

§ 45–1401. Acting as broker or salesman without license unlawful.

NOTES TO DECISIONS

Admission against interest .50
Evidence 1.50
Sufficiency of information 4.50

.50. Admission against interest

In prosecution for acting as a real estate broker without a license, affidavit of individual defendant, who was president of corporate defendant, reciting nature of one of sales transactions, was admissible as an admission against interest. *Underwriters Construction Company, Inc., et al.* v. *District of Columbia* (D.C. Mun. App. 1961, 170 A. 2d 236).

1.50. Evidence

In prosecution for acting as a real estate broker without a license, agreement between purchaser and another, to which individual defendant was a signatory, for construction of a house on a lot and a sales contract for one of lots signed by individual defendant as president of corporate defendant, were relevant to question of whether defendants had made a sale of lot. *Underwriters Construction Company, Inc., et al.* v. *District of Columbia* (D.C. Mun. App. 1961, 170 A. 2d 236).

4.50. Sufficiency of information

Information charging defendants with acting as real estate brokers without a license was sufficient to inform them of charge against them and they were not prejudiced by denial of a motion for bill of particulars and to correct or dismiss the information. *Underwriters Construction Company, Inc., et al.* v. *District of Columbia* (D.C. Mun. App. 1961, 170 A. 2d 236).

§ 45–1402. Definitions—Exceptions.

NOTES TO DECISIONS

1.50. Admission aganist interest

In prosecution for acting as a real estate broker without a license, affidavit of individual defendant, who was president of corporate defendant, reciting nature of one of sales transactions, was admissible as an admission against interest. *Underwriters Construction Company, Inc., et al.* v. *District of Columbia* (D.C. Mun. App. 1961, 170 A. 2d 236).

1.51. Evidence

In prosecution for acting as a real estate broker without a license, agreement between purchaser and another, to which individual defendant was a signatory, for construction of a house on a lot and a sales contract for one of lots signed by individual defendant as president of corporate defendant, were relevant to question of whether defendants had made a sale of lot. *Underwriters Construction Company, Inc., et al.* v. *District of Columbia* (D.C. Mun. App. 1961, 170 A. 2d 236).

4.50. Sufficiency of information

Information charging defendants with acting as real estate brokers without a license was sufficient to inform them of charge against them and they were not prejudiced by denial of a motion for bill of particulars and to correct or dismiss the information. *Underwriters Construction Company, Inc., et al.* v. *District of Columbia* (D.C. Mun. App. 1961, 170 A. 2d 236).

§ 45–1405. Application for license—Requirements—Location of business—Members—Individual broker's and real-estate salesman's license—Bond—Form, conditions.

NOTES TO DECISIONS

2. Recovery on bond

Real estate broker could not recover from surety on real estate salesman's bond of broker's sales manager who had failed to account for money received by him from broker's salesmen who had obtained the money from prospective purchasers. *E. D. Collier* v. *Hartford Accident & Indemnity Co.* (D.C. Mun. App. 1962, 180 A. 2d 846).

§ 45–1408. Suspension or revocation of license—Causes enumerated.

NOTES TO DECISIONS

6. Misrepresentation

Record on review by Municipal Court of Appeals sustained decision of Real Estate Commission suspending petitioner's license as a real estate broker on the grounds that she had made a substantial misrepresentation and had demonstrated such unworthiness to act as broker as to endanger interests of the public. *D. B. Quander* v. *The Real Estate Commissioners of the District of Columbia* (D.C. Mun. App. 1962, 179 A. 2d 386).

In reviewing ruling of Real Estate Commission suspending broker's license, Municipal Court of Appeals was bound to credit testimony adverse to license holder. *Id.*

Penalty of suspension or revocation of license, to be imposed upon a broker guilty of conduct in violation of statute, was a matter wholly within discretionary power of real estate commission. *P. R. Kelley* v. *Real Estate Commission of the District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 415).

14. Sufficiency of evidence

Evidence supported finding that broker, who allegedly agreed to manage apartment buildings for 5 per cent of gross rentals but charged substantial amounts over and above 5 per cent without knowledge or consent of clients, violated statutory provisions proscribing making of substantial misrepresentation or demonstration of unworthiness or incompetency to act as real estate broker but did not violate other provisions proscribing failure within reasonable time to account for or remit property of others or fraudulent or dishonest dealing. *G. F. Worthington III* v. *Real Estate Commission of the District of Columbia* (D.C. Mun. App. 1962, 184 A. 2d 639).

Evidence sustained finding of real estate commission, which revoked broker's real estate license, that broker in violation of statute made a substantial misrepresentation, and engaged in conduct which constituted fraudulent and dishonest dealing. *P. R. Kelley* v. *Real Estate Commission of the District of Columbia* (D.C. Mun. App. 1961, 172 A. 2d 415).

§ 45–1409. Hearing before suspension—Court review—Appeal.

NOTES TO DECISIONS

3. Recovery of commissions

A broker procuring a purchaser for real property who entered into a binding contract with the vendor earned his commission and was entitled to receive it from the vendor when the transaction was abandoned by the parties when the vendor resold the property to others. *S. Blanken* v. *Bechtel Properties, Inc.* (1961, 194 F. Supp. 638; aff'd 299 F. 2d 928).

TITLE 46.—SOCIAL SECURITY

Chapter 1.—CARE OF BLIND

§§ 46–101 to 46–116. Repealed. Oct. 15, 1962, 76 Stat. 919, Pub. L. 87–807, § 24.

Sections 1 to 16 of act Aug. 24, 1935, 49 Stat. 744, ch. 639, related to the care of needy blind persons. They authorized and directed the D.C. Commissioners to enforce the provisions of the sections, to make rules and regulations, defined the term, "needy blind person," prescribed the eligibility requirements for assistance, the form of the application, the amount of benefits, appeal from denial of aid, provided that blind persons receiving aid were not to solicit alms, discontinued aid to blind persons who moved from the District, denied benefits to capable persons who refused to work or who refused to submit to treatment, allowed no benefits to persons intentionally destroying their eyesight, made certain relatives liable for the support of the blind person, allowed the recoupment of benefits paid from the estate of the recipient, prescribed penalties for fraudulently obtaining aid, provided for liberal construction of the sections and included the usual implementing provisions. The subject is now covered by Title 3, chapter 2.

EFFECTIVE DATE

See note to section 3–201.

SAVINGS PROVISIONS

Section 24, act Oct. 15, 1962, provided in part as follows: "Notwithstanding such repeal, all claims of the District of Columbia for recovery of amounts expended for aid or assistance granted under such repealed Acts [46–101 to 46–116] which it now has, or which would have accrued had such Acts not been repealed, shall be recoverable in the same manner and to the same extent as such amounts would be recoverable had such aid or assistance been granted under the provisions of this Act." [Title 3, chapter 2.]

Chapter 2.—OLD-AGE ASSISTANCE

§§ 46–201 to 46–215. Repealed. Oct. 15, 1962, 76 Stat. 919, Pub. L. 87–807, § 24.

Sections 1 to 15 of act Aug. 24, 1935, 49 Stat. 748, ch. 640, related to old-age assistance to needy persons. The sections defined the term "assistance", outlined the eligibility requirements of needy persons for assistance, designated the D.C. Commissioners the administrator of the program, directed them to prescribe and print the forms of application, to make rules and regulations, authorized them to determine the amount of assistance and the manner thereof, provided that old age benefits were non-assignable and not subject to levy or execution, authorized payment of reasonable funeral expenses on death of a recipient, directed investigations to be made of applications for old-age assistance, provided for periodical review of assistance payments and the making of adjustments and suspensions where necessary, prescribed penalties for fraud in procuring assistance, designated the relatives who would be liable for the support of a needy old person, authorized the recoupment of benefits paid from the estate of recipient and included the usual implementing provisions. The subject matter is now covered by Title 3, chapter 2.

EFFECTIVE DATE

See note to section 3–201.

SAVINGS PROVISIONS

Section 24, act Oct. 15, 1962, provided in part as follows: "Notwithstanding such repeal, all claims of the District of Columbia for recovery of amounts expended for aid or assistance granted under such repealed Acts [sections 46–201 to 46–215] which it now has, or which would have accrued had such Acts not been repealed shall be recoverable in the same manner and to the same extent as such amounts would be recoverable had such aid or assistance been granted under the provisions of this Act." [Title 3, chapter 2.]

§ 46–201. Old-age assistance—Definitions.

NOTES TO DECISIONS

1. Public policy

There is a sound public policy in favor of upholding contracts which will insure the support of parties attempting to provide for their own support in their old age, and at the same time effect the transfer of properties and businesses to their heirs or relatives prior to death. *G. Ottenberg, assignee etc.* v. *F. Ottenberg, Individually etc.* (1961, 194 F. Supp. 98).

§ 46–211. Liability of relatives for support—Suit to recover.

NOTES TO DECISIONS

1. Public policy

There is a sound public policy in favor of upholding contracts which will insure the support of parties attempting to provide for their own support in their old age, and at the same time effect the transfer of properties and businesses to their heirs or relatives prior to death. *G. Ottenberg, assignee etc.* v. *F. Ottenberg, Individually etc.* (1961, 194 F. Supp. 98).

§ 46–212. Estate of recipient liable for assistance—Transfer of property to Board as security.

NOTES TO DECISIONS

1. Public policy

There is a sound public policy in favor of upholding contracts which will insure the support of parties attempting to provide for their own support in their old age, and at the same time effect the transfer of properties and businesses to their heirs or relatives prior to death. *G. Ottenberg, assignee etc.* v. *F. Ottenberg, Individually etc.* (1961, 194 F. Supp. 98).

Chapter 3.—UNEMPLOYMENT COMPENSATION

§ 46–301. Definitions.

* * * * *

(b)(5) * * *

(G) service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious or charitable purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

* * * * *

(v) The term "insured work" means employment for employers. (Amended, Mar. 30, 1962, 76 Stat. 46, Pub. L. 87–424, §§ 1, 2.)

AMENDMENTS

1962—Act Mar. 30, 1962, amended subsection (b)(5)(G) by striking out "religious, charitable, scientific, literary, or educational purposes" and inserting in lieu thereof "religious or charitable purposes" and by adding subsection (v) thereto.

EFFECTIVE DATE OF 1962 AMENDMENTS

Section 10 of act Mar. 30, 1962, provided as follows: "The amendments made by this Act [amending sections 46–301, 46–303, 46–307, 46–309, and 46–310] shall take effect on the first day of the first calendar quarter which begins after the date of enactment of this Act" [Mar. 30, 1962].

§ 46–303. Employer contributions.

* * * * *

(c) FUTURE RATES BASED ON BENEFIT EXPERIENCE.—

(1) The Board shall maintain a separate account for each employer, and shall credit his account with all of the contributions paid by him after June 30, 1939, with respect to employment subsequent to May 31, 1939. Each year the Board shall credit to each of such accounts having a positive reserve on the computation date, the interest earned from the Federal Government in the following manner: Each year the ratio of the credit balance in each individual account to the total of all the credit balances in all employer accounts shall be computed as of such computation date, and an amount equal to the interest credited to the District's account in the unemployment trust fund in the Treasury of the United States for the four most recently completed calendar quarters shall be credited prior to the next computation date on the pro rata basis to all employers' accounts having a credit balance on the computation date. Such amount shall be prorated to the individual accounts in the same ratio that the credit balance in each individual account bears to the total of the credit balances in all such accounts. In computing the amount to be credited to the account of an employer as a result of interest earned by funds on deposit in the unemployment trust fund in the Treasury of the United States to the account of the District, any voluntary contribution made by an employer after June 30 of any year shall not be considered a part of the account balance of the employer until the next computation date occurring after such voluntary contribution was made. Nothing in this chapter shall be construed to grant any employer or individual in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals.

* * * * *

(4) (i) No employer's rate of contribution for any calendar year or part thereof shall be reduced below the standard rate unless and until his account could have been charged with benefits paid throughout the thirty-six-consecutive-calander-month period ending on the computation date applicable to such year or part thereof: *Provided,* That for the calendar year 1963, and for each calendar year thereafter, any employer who is subject to this chapter by virtue of the amendment of section 43–301(b)(5)(G) by the Act of March 30, 1962, [Pub. L. 87–424] and who has not been subject to this chapter for a sufficient period to meet this requirement, may qualify for a rate less than the standard rate if his account could have been charged with benefit payments throughout a lesser period but, in no event, less than the twelve consecutive calander months ending on the computation date (as herein defined) for that calendar year.

* * * * *

(5) The Board shall for any uncompleted portion of the calendar year beginning with the effective date of this chapter and for each calendar year thereafter classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts. Each employer's contribution rate for each subsequent year or part thereof shall be calculated on the basis of his records filed with the Board and benefit payments disbursed through the applicable computation date. The Board shall compute rates for the second six months of 1963 for all employers first acquiring the necessary twelve months' benefit experience under section 46–303 (c)(4)(i) on the computation date June 30, 1963. Such rates shall be based upon such employer's experience in the payment of contributions and benefits charged against his account through June 30, 1963, prior to the crediting of his account with trust fund interest. All employers issued a rate for the second six months of 1963, under this subsection, shall have a computation date of September 30, 1963, for the calendar year 1964.

* * * * *

(8) * * *

(i) If as of the computation date the total of all contributions credited to any employer's account, with respect to employment since May 31, 1939, is in excess of the total benefits paid after June 30, 1939, then chargeable or charged to his account, such excess shall be known as the employer's reserve, and his contribution rate for the ensuing calendar year or part thereof shall be—

(A) 2.7 per centum if such reserve is less than 0.8 per centum of his average annual payroll;

(B) 2 per centum if such reserve equals or exceeds 0.8 per centum but is less than 1.3 per centum of his average annual payroll;

(C) 1.5 per centum if such reserve equals or exceeds 1.3 per centum but is less than 1.8 per centum of his average annual payroll;

(D) 1 per centum if such reserve equals or exceeds 1.8 per centum but is less than 2.8 per centum of his average annual payroll;

(E) 0.5 per centum if such reserve equals or exceeds 2.8 per centum but is less than 3.3 per centum of his average annual payroll;

(F) 0.1 per centum if such reserve equals or exceeds 3.3 per centum of his average annual payroll.

* * * * *

(iv) Any employer, at any time, may voluntarily pay into the unemployment compensation fund an amount in excess of the contributions required to be paid under the provisions of this chapter, and such amount shall be forthwith credited to his reserve account. His rate of contribution shall be computed, or recomputed, as the case may be, with such amount included in the calculation. To affect such employer's rate of contribution for any year, such amount shall be paid not later than thirty days following the mailing of notice of his rate of con-

tribution for such year, and not later than one hundred and twenty days after the commencement of such year. Such amount, when paid as aforesaid, shall not be refunded or used as a credit in the payment of contributions in whole or in part.

* * * * *

(9) As used in this subsection—

* * * * *

(b) The term "average annual pay roll", except for the purposes of paragraph (4)(iv) of this subsection, means the average of the annual pay rolls of any employer for the three consecutive twelve-month periods ending ninety days prior to the computation date: *Provided,* That for an employer whose account could have been charged with benefit payments throughout at least twelve but less than thirty-six consecutive calendar months ending on the computation date, the term "average annual pay roll" means the total amount of wages for employment paid by him during the twelve-month period ending ninety days prior to the computation date;.

* * * * *

(As amended Mar. 30, 1962, 76 Stat. 47, Pub. L. 87–424, §§ 3, 4, 5; Sept. 27, 1962, 76 Stat. 663, Pub. L. 87–705, § 1 (a), (b), (c).)

AMENDMENTS

1962—Act Mar. 30, 1962, amended subsection (c)(1) to read as above set out. It also amended subsection (c)(8)(i) to read as above set out and added subsection (c)(8)(iv). For prior provisions of the amended subsections see main volume of the Code.

Section 1(a) of act Sept. 27, 1962, amended subsection (C)(4(1) by striking out the period at the end thereof, inserting a colon and the proviso clause as above set out.

Section 1(b) of the same act amended subsection (c)(5) by adding the last three sentences beginning with the words "The Board shall compute—" and ending with "—for the calendar year 1964".

Section 1(c) of the same act amended subsection (c)(9)(b) by striking out the semicolon at the end thereof, inserting a colon and the proviso clause.

EFFECTIVE DATE OF 1962 AMENDMENTS

See note to section 46–301.

§ 46–307. Amount and duration of benefits.

* * * * *

(b) An individual's "weekly benefit amount" shall be an amount equal to one twenty-third (computed to the next higher multiple of $1) of his total wages for insured work paid during that quarter of his base period in which such total wages were highest, with such other following limitations. If an individual's weekly benefit amount is less than $8, it shall be $8. The Director shall determine annually a maximum weekly benefit amount by computing 50 per centum of the average weekly wage paid to employees in insured work, and shall on or before January 1 of the calendar year in which it shall be effective announce by publication in at least one newspaper of general circulation in the District, the maximum weekly benefit amount so determined. Such computation shall be made by determining total wages reported as paid for insured work by employers in each twelve-month period ending June 30, and dividing said total wages by a figure resulting from fifty-two times the average of mid-month employment reported by employers for the same period. For the period from the effective date of this Act to December 31, 1962, the maximum weekly benefit amount shall be determined and announced by the Director in accordance with the foregoing formula on the basis of wages and employment in the twelve-month period ending June 30, 1961. The maximum weekly benefit amount so determined and announced for a calendar year shall apply only to those claims filed in that year qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in said amount for a subsequent calendar year. If the maximum weekly benefit amount is not a multiple of $1, then said maximum weekly benefit amount shall be computed to the next higher multiple of $1.

(c) To qualify for benefits an individual must have (1) been paid wages for employment of not less than $130 in one quarter in his base period, (2) been paid wages for employment of not less than $276 in not less than two quarters in such period, and (3) received during such period wages the total amount of which is equal to at least one and one-half times the amount of his wages for the quarter in such period in which his wages were the highest. Notwithstanding the provisions of clause (3), any otherwise qualified individual, the total amount of whose wages during such period is less than the amount required to have been received during such period under such clause, may qualify for benefits if the differences between the amounts so required to have been received and the total amount of his wages during such period does not exceed $70, but the amount of his weekly benefit, as computed under section 7(b), shall be reduced by $1 if such difference does not exceed $35 or by $2 if such difference is more than $35. Wages received by an individual in the period intervening between the end of his last base period and the beginning of his last benefit year and paid by employers who were his base period employers in such last base period shall not be available for benefit purposes in a subsequent benefit year unless he has, subsequent to the commencement of such last benefit year, received remuneration for personal services, whether or not such services were performed in employment as defined in this chapter, in an amount equal to at least ten times the weekly benefit amount for which he qualifies in such last benefit year. Benefits payable to an individual with respect to a week shall be reduced, under regulations prescribed by the Board, by any amount received with respect to such week as a retirement pension or annuity under a public or private retirement plan or system provided, or contributed to, by any base period employer. An amount received with respect to a period other than a week shall be prorated by weeks. No reduction shall be made under the preceding two sentences for (A) any

retirement pension or annuity received by reason of disability, or (B) any amount received under title II of the Social Security Act.

(d) Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to thirty-four times his weekly benefit amount or 50 percent of the wages for employment paid to such individual by employers during his base period whichever is the lesser. Such total amount of benefits, if not a multiple of $1, shall be computed to the next higher multiple of $1.

* * * * *

(f) DEPENDENT'S ALLOWANCE.—In addition to the beefits payable under the foregoing subsections of this section, each eligible individual who is unemployed in any week shall be paid with respect to such week $1 for each dependent relative, but not more than $3 shall be paid to an individual as dependent's allowance with respect to any one week of unemployment nor shall any weekly benefit which includes a dependent's allowance be paid in the amount of more than the established maximum benefit amount. An individual's number of dependents shall be determined as of the day with respect to which he first files a valid claim for benefits in any benefit year, and shall be fixed for the duration of such benefit year. The dependent's allowance is not to be taken into consideration in calculating the claimant's total amount of benefits in subsection (d) of this section. (Aug. 28, 1935, 49 Stat. 949, ch. 794, § 7, formerly § 8; June 2, 1940, 54 Stat. 732, ch. 524, § 1; June 4, 1943, 57 Stat. 112, ch. 117; Aug. 31, 1954, 68 Stat. 993, ch. 1139, § 1; Mar. 30, 1962, 76 Stat. 48, Pub. L. 87–424, §§ 5, 6, 7.)

AMENDMENTS

1962—Act Mar. 30, 1962, amended subsections (b), (c), and (d) to read as above set out and also amended subsection (f) by striking out "$30" and inserting in lieu thereof the words "the established maximum benefit amount".

For provisions of subsections (b), (c), and (d) prior to this amendment see main volume of the Code.

EFFECTIVE DATE OF 1962 AMENDMENTS

See note to sections 46–301.

INTERNAL REFERENCES

"This Act" referred to in subsection (b) is act of Mar. 30, 1962. For effective date of act see note to section 46–301.

Title II of the Social Security Act referred to in subsection (c) is set out in U.S. Code, Title 42, chapter 7.

§ 46–309. Eligibility for benefits.

* * * * *

(b) that he has during his base period been paid wages for employment by employers equal to those required by subsection (c) of section 46–307.

* * * * *

(As amended Mar. 30, 1962, 76 Stat. 49, Pub. L. 87–424, § 8.)

AMENDMENT

1962—Act Mar. 30, 1962, amended clause (b) to read as above set out. Prior to amendment clause (b) read as follows: "that he has during his base period been paid wages for employment by employers equal to not less than the amount appearing in column 'C' of the table in section 46–307(b), on the line on which in column 'B' his weekly benefit amount appears."

EFFECTIVE DATE OF 1962 AMENDMENTS

See note to sections 46–301.

§ 46–310. Disqualification for benefits.

* * * * *

(d)(1) Benefits shall not be denied to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, earnings, hours, or other conditions of the work offered are less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(2) Compensation shall not be denied to any otherwise eligible individual for any week during which he is attending a training or retraining course with the approval of the Board, and such individual shall be deemed to be otherwise eligible for any such week despite the provisions of section 46–309(d) and subsection (c) of this section.

(e) If any individual otherwise eligible for benefits fails, without good cause as determined by the Board under regulations prescribed by it, to attend a training or retraining course when recommended by the manager of the employment office or by the Board and such course is available at public expense, he shall not be eligible for benefits with respect to any week in which such failure occurred.

* * * * *

(As amended Mar. 30, 1962, 76 Stat. 49, Pub. L. 87–424, § 9.)

AMENDMENTS

1962—Act Mar. 30, 1962, amended subsections (d) and (e) to read as above set out. For provisions of subsections (d) and (c) prior to this amendment see main volume of the Code.

EFFECTIVE DATE OF 1962 AMENDMENTS

See note to section 46–301.

TITLE 47.—TAXATION AND FISCAL AFFAIRS

Chapter 10.—REAL PROPERTY TAX SALES

§ 47–1003. Deposit required—Certificate of sale—Tax deed—Redemption.

NOTES TO DECISIONS

3. Redemption

Neither conservator nor his ward must wait for removal of legal disability to redeem property from tax sale, and conservator may not be denied right to redeem in proper case because he is conservator under District of Columbia statutes. *Shenandoah Corp.* v. *E. F. Jackson* (1962, 298 F. 2d 324, 111 U.S. App. D.C. 410).

Chapter 11.—SPECIAL ASSESSMENTS

§ 47–1101. Protest against special assessment—Hearing—Report and exceptions—Decision.

NOTES TO DECISIONS

1.50 Jurisdiction of municipal court

Municipal Court for District of Columbia, under its equity powers, lacked jurisdiction to entertain cause of action by property owners to cancel special assessment by District for certain paving improvements to sidewalks and alley. *J. F. Paton and M. S. Paton* v. *District of Columbia* (D.C. Mun. App. 1962, 180 A. 2d 844).

Chapter 15.—INCOME AND FRANCHISE TAXES

§ 47–1551c. General definitions.

NOTES TO DECISIONS

2. Dividends

Under statute defining "dividend" as any distribution made by corporation to stockholders out of earnings, profits or surplus whenever earned by corporation, unrealized appreciation in value of improved realty which was held by corporation for income and not for sale did not become a "dividend" when corporation distributed assets to stockholders upon dissolution. *District of Columbia* v. *B. W. Oppenheimer* (1962, 301 F. 2d 563, 112 US. App. D.C. 239).

§ 47–1571a. Imposition and rate of tax.

NOTES TO DECISIONS

6.50. Sales to the United States

Under Income and Franchise Tax Act of 1947, as amended, sales of tangible personal property to the United States by a corporation having its principal place of business in District of Columbia were apportionable on same basis as sales of like property to private customers, and District's contention that all of taxpayer's sales to United States were subject to tax and not apportionable was opposed to interpretation of statute and rule set out in District's own regulations. *District of Columbia* v. *Gallant Incorporated* (1962, 305 F. 2d 761. — U.S. App. D.C. —).

§ 47–1574. Definition of unincorporated business.

NOTES TO DECISIONS

1.50. Engaging in business

Where physician devoted all his time to practice of his profession and relied upon his real estate adviser for purchase or making of first trust notes or purchase of real estate, collections were made by bank, and physician did not follow up delinquent accounts, and had no employees or office connected with his investments, physician was not engaged in "business" of lending within District of Columbia Code imposing tax on privilege of engaging in any business within District. *District of Columbia* v. *J. C. Brady* (1960, 288 F. 2d 108, 109 U.S. App. D.C. 324).

In action by taxpayer against District of Columbia for recovery of franchise taxes paid on basis that he had been engaged in business of renting real estate, wherein evidence as to whether taxpayer, a practicing physician, had wholly parted with management and control of three of his properties that were rented was not conclusive, and trial court made no finding on such issue, case would be remanded for further consideration of that phase. *Id.*

Neither ownership per se nor even leasing of property by owner necessarily constitutes carrying on business of renting real estate within District of Columbia franchise tax imposed on businesses. *Id.*

§ 47–1580. Purpose of subchapter.

NOTES TO DECISIONS

12. Regulations of Commissioners

The 1961 amendments of District of Columbia franchise tax regulations were not retroactively applicable to determine tax liability for 1956 and hence a formula using only a sales factor must be employed under 1953 regulation so that sales principally secured, negotiated or effected in District were to be deemed District sales in determining proper method of apportioning to District that part of taxpayer's net income which was "fairly attributable" to business carried on in the District. *District of Columbia* v. *Gallant Incorporated* (1962, 305 F. 2d 761, — U.S. App. D.C. —).

District of Columbia franchise tax regulations which provided that prior regulations were rescinded except for certain purposes in relation to years to which they were applicable were only regulations in effect as to tax year subsequent to promulgation of such regulations. *District of Columbia* v. *Gallant Incorporated; Gallant Incorporated* v. *District of Columbia* (1961, 290 F. 2d 745, 110 U.S. App. D.C. 202).

§ 47–1580a. Allocation and apportionment.

NOTES TO DECISIONS

Apportionment formula 2
Sales to the United States 8.50
Tax Court's authority 10

2. Apportionment formula

Assessor has discretion to select, from District of Columbia franchise tax regulations, most appropriate formula for apportioning that part of corporate taxpayer's net income which is fairly attributable to business carried on in District and, in absence of such formula, can devise formula which, in his judgment, subject to court review, will properly determine net income subject to tax and amount of tax. *District of Columbia* v. *Gallant Incorporated; Gallant Incorporated* v. *District of Columbia* (1961, 290 F. 2d 745, 110 U.S. App. D.C. 202).

8.50. Sales to the United States

Under Income and Franchise Tax Act of 1947, as amended, sales of tangible personal property to the United States by a corporation having its principal place of business in District of Columbia were apportionable on same basis as sales of like property to private customers, and District's contention that all of taxpayer's sales to United States were subject to tax and not apportionable was opposed to interpretation of statute and rule set out in District's own regulations. *District of Columbia* v. *Gallant Incorporated* (1962, 305 F. 2d 761, — U.S. App. D.C. —).

10. Tax Court's authority

Tax Court was not precluded, by lack of regulatory formula, from determining income fairly attributable to District of Columbia for franchise tax purposes but could determine such amount by applying applicable tax regulations and using formula Tax Court deemed best suited to determine such income. *District of Columbia* v. *Gallant Incorporated; Gallant Incorporated* v. *District of Columbia* (1961, 290 F. 2d 745, 110 U.S. App. D.C. 202).

§ 47–1586. Duties of Assessor.

NOTES TO DECISIONS

Apportionment formula 1
Tax Court's authority 2

1. Apportionment formula

Assessor has discretion to select, from District of Columbia franchise tax regulations, most appropriate formula for apportioning that part of corporate taxpayer's net income which is fairly attributable to business carried on in District and, in absence of such formula, can devise formula which, in his judgment, subject to court review, will properly determine net income subject to tax and amount of tax. *District of Columbia* v. *Gallant Incorporated; Gallant Incorporated* v. *District of Columbia* (1961, 290 F. 2d 745, 110 U.S. App. D.C. 202).

2. Tax Court's authority

Tax Court was not precluded, by lack of regulatory formula, from determining income fairly attributable to District of Columbia for franchise tax purposes but could determine such amount by applying applicable tax regulations and using formula Tax Court deemed best suited to determine such income. *District of Columbia* v. *Gallant Incorporated; Gallant Incorporated* v. *District of Columbia* (1961, 290 F. 2d 745, 110 U.S. App. D.C. 202).

§ 47–1586f. Payment of tax.

(a) *Time of payment.*—(1) Except as provided in paragraph (2) of this subsection, the total amount of tax due as shown on the taxpayer's return is due and payable in full at the time prescribed in this article for the filing of such return.

* * * * *

(Mar. 2, 1962, 76 Stat. 10, Pub. L. 87–408, § 201.)

AMENDMENTS

1962—Act Mar. 2, 1962, amended paragraph (1) of subsection (a) to read as above set out. For provisions of this paragraph prior to this amendment see main volume of the Code.

APPLICABLE DATE OF 1962 AMENDMENTS

Section 202 of act Mar. 2, 1962, provided that the amendment of paragraph (1) of subsection (a) "shall be applicable to the taxable years beginning after December 31, 1961".

§ 47–1593a. Election of remedy.

NOTES TO DECISIONS

1. Choice of remedy

Under District of Columbia Code to effect that administrative remedy for recovery of taxes shall not be deemed to take away from taxpayer any remedy which he might have had under any other provision of law, taxpayer is permitted recourse to either administrative remedy or common-law suit for recovery of District of Columbia taxes, and inasmuch as decision of Tax Court or filing of an appeal with that court precludes taxpayer from filing suit under his common-law remedy, exhaustion of administrative remedy can in no sense be a condition precedent to a common-law action. *District of Columbia* v. *J. C. Brady* (1960, 288 F. 2d 108, 109 U.S. App. D.C. 324).

Chapter 16.—INHERITANCE AND ESTATE TAXES

§ 47–1601. Imposition of tax.

NOTES TO DECISIONS

Jointly owned property 8.50
Payment in lieu of support 10.50

8.50. Jointly owned property

Statute subjected to inheritance tax one half of value of shares of stock, which first sister had purchased with her own funds, and which first sister had registered jointly in names of herself and of second sister, with right of survivorship, on death of second sister. *P. McKimmey* v. *District of Columbia* (1962, 300 F. 2d 724, 112 U.S. App. D.C. 132).

10.50. Payment in lieu of support

A transfer in lieu of husband's obligation to support his first wife during their joint lives, or until her remarriage, was made for adequate and full consideration in money or money's worth, and if lump-sum payment made by executrix to first wife pursuant to property settlement agreement was in lieu of support obligation, it was not subject to a transfer tax. *District of Columbia* v. *F. C. Lewis etc.* (1961, 288 F. 2d 137, 109 U.S. App. D.C. 353).

§ 47–1602. Tax based on market value—Appraisal.

NOTES TO DECISIONS

2.50. Jointly owned property

Statute subjected to inheritance tax one half of value of shares of stock, which first sister had purchased with her own funds, and which first sister had registered jointly in names of herself and of second sister, with right of survivorship, on death of second sister. *P. McKimmey* v. *District of Columbia* (1962, 300 F. 2d 724, 112 U.S. App. D.C. 132).

Chapter 19.—MOTOR FUEL TAX

§ 47–1901. Rate—Use restricted.

CROSS REFERENCE

Provisions transferring parking funds to special account in highway fund, see note to section 40–808.

§ 47–1903. Importers—License—Application for—Contents—Fee—Bond—Issuance—Revocation.

NOTES TO DECISIONS

1. Resident general agent

Foreign corporation was not entitled to a license to import motor-vehicle fuel into the District of Columbia where it failed to meet the qualifications of the statute and police regulation requiring an importer qualifying for a license to designate a local representative and to maintain a local office or place of business within the District. *Cities Service Oil Company* v. *W. N. Tobriner et al.* (1962, 306 F. 2d 752, — U.S. App. D.C. —).

District of Columbia motor fuel tax law and police regulation required that foreign corporation acting thereunder designate local representative, but did not require designation of resident general agent by corporation which maintained no such agent. *Cities Service Oil Co.* v. *R. E. McLaughlin, Commissioner, etc.* (1961, 292 F. 2d 759, 110 U.S. App. D.C. 266).

§ 47–1916. Commissioners to make necessary regulations.

NOTES TO DECISIONS

1. Resident general agent

Foreign corporation was not entitled to a license to import motor-vehicle fuel into the District of Columbia where it failed to meet the qualifications of the statute and police regulation requiring an importer qualifying for a license to designate a local representative and to maintain a local office or place of business within the District. *Cities Service Oil Company* v. *W. N. Tobriner et al.* (1962, 306 F. 2d 752, — U.S. App. D.C. —).

District of Columbia motor fuel tax law and police regulation required that foreign corporation acting thereunder designate local representative, but did not require designation of resident general agent by corporation which maintained no such agent. *Cities Service Oil Co.* v. *R. E. McLaughlin, Commissioner, etc.* (1961, 292 F. 2d 759, 110 U.S. App. D.C. 266).

Chapter 20.—DOG TAX

Sec.
47-2004. Dogs wearing tags regarded as personal property—Damages for injuring or destruction of same.

§ 47-2003. Impounding of dogs found at large.

The poundmaster of the District of Columbia shall, during the entire year, seize all dogs found running at large, and shall impound the same; and if within forty-eight hours the same are not redeemed by the owners thereof by the payment of two dollars they shall be sold or destroyed, as the poundmaster may deem advisable; and any sale made by virtue hereof shall be deemed valid to all intents and purposes in all courts of the District of Columbia: *Provided,* That no owner, keeper, or purchaser, shall be permitted to redeem any dog seized and impounded as aforesaid, nor shall the Poundmaster deliver any dog to an owner, keeper, or purchaser, unless such owner, keeper, or purchaser shall first satisfy the Poundmaster that he has obtained for such dog the tax tag provided for in section 47-2002, and if at such time there shall be in force a proclamation of the Commissioners requiring dogs to be vaccinated against rabies, such owner, keeper, or purchaser shall also satisfy the Poundmaster that such dog has been vaccinated against rabies in accordance with such proclamation. (June 19, 1878, 20 Stat. 173, ch. 323, § 3; June 30, 1902, 32 Stat. 547, ch. 1332; July 5, 1945, 59 Stat. 409, ch. 267, § 2; Sept. 13, 1961, 75 Stat. 498, Pub. L. 87-227, § 2(1).)

AMENDMENT

1961—Section 2(1) of act Sept. 13, 1961, struck out the following: "without the tax tag issued by the collector aforesaid attached, and all female dogs in heat found running at large". This makes it permissible for the poundmaster to seize all dogs running at large.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 4 of act Sept. 13, 1961, makes this amendment "effective thirty days after the date of its approval" [Sept. 13, 1961].

§ 47-2004. Dogs wearing tags regarded as personal property—Damages for injuring or destruction of same.

Any dog wearing the tax tag hereinbefore provided for shall be regarded as personal property in all the courts of said District, and any person injuring or destroying the same shall be liable to a civil action for damages, which, upon proof of said injuring or killing, may be awarded in a sum equal to the value usually put upon such property by persons buying and selling the same, subject to such modifications as the particular circumstances of the case may make proper. (June 19, 1878, 20 Stat. 174, ch. 323, § 4; June 30, 1902, 32 Stat. 547, ch. 1332; Sept. 13, 1961, 75 Stat. 498, Pub. L. 87-227, § 2(2).)

AMENDMENT

1961—Section 2(2) of act Sept. 13, 1961, amended the section by striking out "That any dog wearing the tax tag hereinbefore provided for, except female dogs in heat, shall be permitted to run at large within the District of Columbia, and any" and inserting in lieu thereof "Any". This eliminates provision permitting licensed dogs to run at large.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 4 of act Sept. 13, 1961, makes this amendment "effective thirty days after the date of its approval" [Sept 13, 1961].

Chapter 23.—GENERAL LICENSE LAW

§ 47-2331. Vehicles for hire—Hackers' licenses—Identification tags on vehicles—Sightseeing vehicles for school children, occasional purposes—Ambulances, private vehicles for funeral purposes—Issuance of licenses—Payment of fees.

NOTES TO DECISIONS

Moral character of applicant 5.50
Operators license 6.50

5.50. Moral character of applicant

Findings of Board of Revocation and Review of Hackers' Identification Cards that two applicants for licenses to drive taxicabs were not of good moral character were supported by substantial evidence. *Green, Williams, and Tymus* v. *Silver* (1962, 207 F. Supp. 133).

That applicant for license to drive taxicab was unable to purchase liability insurance, had violated parking regulations, and 11 years before, had had his operator's permit revoked for accumulation of traffic points did not constitute evidence as to moral fitness at time of application. *Id.*

That applicant for license to drive taxicab had been arrested in 1943 when in his early twenties, on disorderly conduct charge which government dropped was not sufficient evidence to support finding that he was not proper person to receive public vehicle operator's license in 1961. *Id.*

Board of Revocation and Review of Hackers' Identification Cards had right to consider prior arrest of applicant for public vehicle operator's license reflecting upon moral character of applicant, even though there was no trial and no conviction. *Id.*

6.50. Operators license

District of Columbia Board of Commissioners had authority to delegate to Board of Revocation and Review of Hackers' Identification Cards the Commissioners' powers to grant or deny licenses to operate taxicabs and, in reviewing Board's findings, only if action of board was arbitrary or unsupported by evidence may Board's judgment be overruled. *Green, Williams, and Tymus* v. *Silver* (1962, 207 F. Supp. 133).

Chapter 24.—DISTRICT OF COLUMBIA TAX COURT

§ 47-2402. Board of Tax Appeals—District of Columbia Tax Court.

NOTES TO DECISIONS

.50. Choice of remedy

Under District of Columbia Code to effect that administrative remedy for recovery of taxes shall not be deemed to take away from taxpayer any remedy which he might have had under any other provision of law, taxpayer is permitted recourse to either administrative remedy or common-law suit for recovery of District of Columbia taxes, and inasmuch as decision of Tax Court or filing of an appeal with that court precludes taxpayer from filing suit under his common-law remedy, exhaustion of administrative remedy can in no sense be a condition precedent to a common-law action. *District of Columbia* v. *J. C. Brady* (1960, 288 F. 2d 108, 109 U.S. App. D.C. 324).

§ 47–2403. Appeal from assessment—Hearing and decision.

NOTES TO DECISIONS

13.50. Tax Court's authority

Tax Court was not precluded, by lack of regulatory formula, from determining income fairly attributable to District of Columbia for franchise tax purposes but could determine such amount by applying applicable tax regulations and using formula Tax Court deemed best suited to determine such income. *District of Columbia* v. *Gallant Incorporated; Gallant Incorporated* v. *District of Columbia* (1961, 290 F. 2d 745, 110 U.S. App. D.C. 202).

§ 47–2406. Appeal from imposition of tax involuntarily paid—Suit.

NOTES TO DECISIONS

3. Voluntary payment

In District of Columbia, a tax payment voluntarily made cannot be recovered. *District of Columbia* v. *J. C Brady* (1960, 288 F. 2d 108, 109 U.S. App. D.C. 324).

Chapter 26.—GROSS SALES TAX

§ 47–2602. Imposition of tax.

AMENDMENTS

1962—Act Mar. 2, 1962, 76 Stat. 10, Pub. L. 87–408, amended the section by striking out "2 per centum" and inserting in lieu "3 per centum" and by striking out "3 per centum" in the proviso and inserting in lieu "4 per centum".

EFFECTIVE DATE AND REFERENCES TO SECTIONS 47–2602 AND 47–2604

Section 103, act Mar. 2, 1962, provides as follows: "The amendments made by the first two sections of this title [amending sections 47–2602, 47–2604 and 47–2702] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act [Mar. 2, 1962]. From and after the effective date of such amendments, all references in the District of Columbia Use Tax Act [ch. 27, title 47, D.C. Code] to sections 125 [47–2602] and 127 [47–2604] of the District of Columbia Sales Tax Act shall be deemed to be references to such sections 125 and 127 as amended by the first section of this title."

§ 47–2604. Rate of tax.

* * * * *

(a) On each sale, other than sales of food for human consumption off the premises where such food is sold, and other than sales or charges for rooms, lodgings, or accommodations furnished to transients, such amounts as may be prescribed by the Board of Commissioners of the District of Columbia to carry out the purposes of this section.

* * * * *

(c) On each sale or charge for rooms, lodgings, or accommodations, furnished to transients, 4 per centum of the sales price. (Mar. 2, 1962, 76 Stat. 10, Pub. L. 87–408, § 101(b)(c).)

AMENDMENTS

1962—Act Mar. 2, 1962, amended subsection (a) to read as above set out. For provision of subsection before this amendment see main volume of Code. Act also amended subsection (c) by striking out "3 per centum" and inserting in lieu "4 per centum".

EFFECTIVE DATE OF 1962 AMENDMENT

See note to section 47–2602.

Chapter 27.—COMPENSATING-USE TAX

§ 47–2702. Imposition of tax.

AMENDMENTS

1962—Act Mar. 2, 1962, 76 Stat. 10, Pub. L. 87–408, amended section by striking out "2 per centum" and inserting in lieu "3 per centum".

EFFECTIVE DATE OF 1962 AMENDMENT

See note to section 47–2602.

Parallel Reference Tables

Table 1.—STATUTES INCLUDED

THIS TABLE SUPPLEMENTING 1961 CODE SHOWS WHERE ACTS OF CONGRESS TO JANUARY 8, 1962, WILL BE FOUND

Statutes at Large

VOLUME 54

Date	Page	Chapter	Ch.	Section	D.C. Code
1940					
Oct. 9	1082	792	II	46	35-1301 note.

VOLUME 66

Date	Page	Chapter	Ch.	Section	D.C. Code
1952					
July 19	790	949		1	8-115.

VOLUME 68

Date	Page	Chapter	Ch.	Section	D.C. Code
1954					
Aug. 30	967	1076		1 (20)	8-115.

VOLUME 72

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1958					
Aug. 23	807	85-726	XIV	1402(g)	7-1401 to 7-1411.

VOLUME 75

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1961					
June 27	121	87-60		1	4-106.
June 30	197	87-79		1	Special.
Sept. 6	470	87-203		1	11-804(a).
Sept. 13	497	87-226		1	Special.
	498	87-227		1	1-224b.
	498	87-227		2(1)	47-2003.
	498	87-227		2(2)	47-2004.
	498	87-227		3	1-224.
	498	87-227		4	1-224b note.
Sept. 14	510	87-238		1	25-124(c) repealed.
	510	87-238		2	25-124(c) renumbered.
	511	87-238		3	25-124(e)(f)(i)(j) repealed.
	511	87-238		3	25-124(d)(e) renumbered.
	511	87-238		4	25-124(f) renumbered.
	511	87-238		5	25-124(g).
	511	87-238		6	25-124 note.
	511	87-238		7	25-124 note.
	511	87-238		8	25-124 note.
	511	87-238		9	25-124 note.
	513	87-242		1	11-755(a).
	513	87-242		2	11-755 note.
	513	87-242		3	11-755 note.
	514	87-245		1	35-535.
	515	87-246		1	18-101 note.
	515	87-246		2	18-101.
	515	87-246		3	18-201a.
	516	87-246		4	18-211.
	517	87-246		5	18-204.
	517	87-246		6	30-201.
	517	87-246		7	18-101 note.
	517	87-246		8	18-101 note.
	518	87-248		1	2-103a.
	518	87-248		2	2-122.
	519	87-248		3	2-141.
	519	87-249		1	35-710.

VOLUME 75—Continued

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1961					
Sept. 21	540	87-259		1	22-1505.
	540	87-259		2	22-1505 note.
	542 to 544	87-262		1, 2, 3, 4, 5, 6, 7, 8.	32-317 to 32-320 notes.
	564	87-265		7	1-263 note.
	564	87-265		10	40-503 note.
	564	87-265		15	11-749, 9-501, 33-111 notes.
	565	87-267		1	22-3401 omitted.
	565	87-267		1	22-3402 repealed.
	565	87-267		1	22-3403 repealed.
Sept. 22	578	87-280		1	2-451 note.
	578	87-280		2	2 451.
	578	87-280		3	2-452.
	578	87-280		4	2-453.
	579	87-280		5	2-454.
	579	87-280		6	2-455.
	579	87-280		7	2-456.
	580	87-280		8	2-457.
	580	87-280		9	2-458.
	580	87-280		10	2-459.
	580	87-280		11	2-460.
	581	87-280		12	2-461.
	581	87-280		13	2-462.
	582	87-280		14	2-463.
	582	87-280		15	2-464.
	582	87-280		16	2-465.
	582	87-280		17	2-466.
	582	87-280		18	2-467.
	583	87-280		19	2-468.
	583	87-280		20	2-469.
	583	87-280		21	2-470.
	583	87-280		22	2-471.
	583	87-280		23	2-472.
	583	87-281		1	5-405.
Sept. 26	681	87-318		1	14-310.
	686	87-325		1	7-1218 note.
Oct. 3	751	87-339		1	1-311 note.
Oct. 4	769	87-349		1	11-1507.
	769	87-349		2	11-1519.
	776	87-355		1	Special.
	778	87-358		1	Special.
	783	87-364		1—3	Special.
	787	87-367	I	103 (4)	1-1407.
	789	67-367	I	104	1-1407 note.
	817	87-389		1 (1)	1-1101.
	817	87-389		1 (2)	1-1103.
	817	87-389		1 (3)	1-1105(a).
	817	87-389		1 (4)	1-1105(a).
	817	87-389		1 (5)	1-1105(b)(c).
	817	87-389		1 (6)	1-1105(a).
	817	87-389		1 (7)	1-1106(c).
	817	87-389		1 (8)	1-1107(a).
	818	87-389		1 (9)	1-1107(b).
	818	87-389		1 (10)	1-1107(c).
	818	87-389		1 (11)	1-1107(d).
	818	87-389		1 (12)	1-1108(a).
	818	87-389		1 (13)	1-1108(d, e, f, g).
	819	87-389		1 (14)	1-1109(a).
	819	87-389		1 (15)	1-1109(b).
	819	87-389		1 (16)	1-1109(e).
	819	87-389		1 (17)	1-1109(g).
	819	87-389		1 (18)	1-1110(a).
	819	87-389		1 (19)	1-1110(b).
	819	87-389		1 (20)	1-1110(d).
	819	87-389		1 (21)	1-1113(b).
	819	87-389		1 (22)	1-1113(d).
	819	87-389		1 (23)	1-1113(e).
	820	87-389		1 (24)	1-1114.
	820	87-389		1 (25)	1-1101 note.
	820	87-389		1 (26)	1-1102.
	820	87-389		2	1-1101 note.
	820	87-389		3	25-107.
Oct. 5	830	87-399		1	4-404a.
	830	87-399		2	4-404a.
	831	87-399		3	4-904.
	831	87-399		4	4-807.

Statutes at Large—Continued

VOLUME 75—Continued

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1961					
Oct. 5	831	87-399		5	4-821.
	832	87-399		6	4-408a,
	832	87-399		7	4-404a notes, 4-408a notes.

VOLUME 76

Date	Page	Pub. L.	Title	Section	D.C. Code Supp
1962					
Mar. 2	14	87-408	III	310	45-730.
	15	87-408	III	311	45-731.
	15	87-408	III	312	45-732.
	15	87-408	III	313	45-733.
	15	87-408	III	314	45-734.
	16	87-408	III	315	45-735.
	16	87-408	III	316	45-736.
	16	87-408	III	317	45-737.
	16	87-408	III	318	45-738.
	16	87-408	III	319	45-739.
	16	87-408	III	320	45-740.
	16	87-408	III	321	45-741.
	10	87-408	I	101(a)	47-2602.
	10	87-408	I	101(b)(c)	47-204.
	10	87-408	I	102	47-2702.
	10	87-408	I	103	47-2602 note.
	10	87-408	II	201	47-1586f.
	10	87-408	II	202	47-1586f note.
	11	87-408	III	301	45-721.
	11	87-408	III	302	45-722.
	12	87-408	III	303	45-723.
	12	87-408	III	304	45-724.
	12	87-408	III	305	45-725.
	13	87-408	III	306	45-726.
	13	87-408	III	307	45-727.
	13	87-408	III	308	45-728.
	13	87-408	III	309	45-729.
	17	87-408	III	322	45-742.
	17	87-408	III	323	45-743.
	17	87-408	III	324	45-744.
	17	87-408	III	325	45-721 note.
	17	87-408	III	326	45-721 note.
	17	87-408	IV	401	25-124.
	17	87-408	IV	402	25-124 note.
	17	87-408	V	501	43-1520c.
	18	87-408	V	502	43-1606.
	18	87-408	V	503	43-1607.
	18	87-408	V	504	43-1520c.
	18	87-408	VI	601	40-808.
	18	87-408	VI	602	40-809.
	18	87-408	VI	603	40-801; 40-809a.
	19	87-408	VI	604	40-808 note.
Mar. 9	21	87-413		1	11-920.
	22	87-413		2	11-920 note.
	22	87-413		3(a)	11-921.
	22	87-413		3(b)	11-904, 11-928.
	22	87-413		3(c)	11-923, 11-925.
	22	87-413		3(d)	11-906, 11-914, 11-927, 11-937.
	22	87-413		3(e)	11-924.
	22	87-413		3(f)	11-929(b).
	22	87-413		3(g)	11-942.
	22	87-413		4	11-922.
	22	87-413		5	11-942-1.
	22	87-413		6	11-920 note.
Mar. 22	46	87-423		1	22-2404.
Mar. 30	46	87-424		1	46-301(b)(5)(G).
	47	87-424		2	46-301.
	47	87-424		3	46-303(c)(1).
	47	87-424		4	46-303(c)(8)(i).
	48	87-424		5	46-303(c)(8).
	48	87-424		6	46-307(b)(c)(d).
	49	87-424		7	46-307(f),
	49	87-424		8	46-309.
	49	87-424		9	46-310(d)(e).
	50	87-424		10	46-301 note.
May 31	83	87-460			Special.
	89	87-470		1	25-111.
	90	87-470		2	25-111 note.
	92	87-475			Special.
June 28	113	87-507		1(2)	44-214a.
	113	87-507		2	44-214a note.
July 1	124	87-511		1	Special.
July 5	135	87-523		1 to 16	Special.
July 27	222	87-552		1	Special.
Aug. 6	265	87-569		1	29-1001.
	266	87-569		2	29-1002.
	267	87-569		3	29-1003.
	267	87-569		4	29-1004.
	267	87-569		5	29-1005.
	269	87-569		6	29-1006.
	269	87-569		7	29-1007.
	269	87-569		8	29-1008.
	270	87-569		9	29-1009.
	270	87-569		10	29-1010.

VOLUME 76—Continued

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1962					
Aug. 6	271	87-569		11	29-1011.
	271	87-569		12	29-1012.
	271	87-569		13	29-1013.
	272	87-569		14	29-1014.
	272	87-569		15	29-1015.
	272	87-569		16	29-1016.
	272	87-569		17	29-1017.
	273	87-569		18	29-1018.
	273	87-569		19	29-1019.
	274	87-569		20	29-1020.
	274	87-569		21	29-1021.
	274	87-569		22	29-1022.
	274	87-569		23	29-1023.
	275	87-569		24	29-1024.
	275	87-569		25	29-1025.
	275	87-569		26	29-1026.
	275	87-569		27	29-1027.
	275	87-569		28	29-1028.
	276	87-569		29	29-1029.
	276	87-569		30	29-1030.
	276	87-569		31	29-1031.
	277	87-569		32	29-1032.
	277	87-569		33	29-1033.
	277	87-569		34	29-1034.
	277	87-569		35	29-1035.
	278	87-569		36	29-1036.
	278	87-569		37	29-1037.
	278	87-569		38	29-1038.
	279	87-569		39	29-1039.
	279	87-569		40	29-1040.
	279	87-569		41	29-1041.
	280	87-569		42	29-1042.
	280	87-569		43	29-1043.
	280	87-569		44	29-1044.
	281	87-569		45	29-1045.
	282	87-569		46	29-1046.
	283	87-569		47	29-1047.
	283	87-569		48	29-1048.
	284	87-569		49	29-1049.
	284	87-569		50	29-1050.
	285	87-569		51	29-1051.
	285	87-569		52	29-1052.
	286	87-569		53	29-1053.
	286	87-569		54	29-1954.
	287	87-569		55	29-1055.
	287	87-569		56	29-1056.
	288	87-569		57	29-1057.
	288	87-569		58	29-1058.
	289	87-569		59	29-1059.
	289	87-569		60	29-1060.
	289	87-569		61	29-1061.
	289	87-569		62	29-1062.
	289	87-569		63	29-1063.
	290	87-569		64	29-1064.
	290	87-569		65	29-1065.
	290	87-569		66	29-1066.
	291	87-569		67	29-1067.
	291	87-569		68	29-1068.
	291	87-569		69	29-1069.
	292	87-569		70	29-1070.
	292	87-569		71	29-1071.
	292	87-569		72	29-1072.
	293	87-569		73	29-1073.
	294	87-569		74	29-1074
	294	87-569		75	29-1075.
	294	87-569		76	29-1076.
	295	87-569		77	29-1077.
	295	87-569		78	29-1078.
	295	87-569		79	29-1079.
	296	87-569		80	29-1080.
	296	87-569		81	29-1081.
	297	87-569		82	29-1082.
	297	87-569		83	29-1083.
	298	87-569		84	29-1084.
	298	87-569		85	29-1085.
	298	87-569		86	29-1086.
	299	87-569		87	29-1087.
	299	87-569		88	29-1088.
	299	87-569		89	29-1089.
	300	87-569		90	29-1090.
	300	87-569		91	29-1091.
	300	89-569		92	29-1092.
	301	87-569		93	29-1093.
	302	87-569		94	29-1094.
	302	87-569		95	29-1095.
	302	87-569		96	29-1096.
	303	87-569		97	29-1097.
	303	87-569		98	29-1098.
	303	87-569		99	29-1099.
	303	87-569		100	29-1100.
	303	87-569		101	29-1101.
	304	87-569		102	29-1102.
	304	87-569		103	29-1103.
	205	87-569		104	29-1104.
	305	87-569		105	29-1105.
	306	87-569		106	29-1106.
	306	87-569		107	29-1107.
	306	87-569		108	29-1108.
	306	87-569		109	29-1109.
	306	87-569		110	29-1110.

Statutes at Large—Continued

VOLUME 76—Continued

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1962					
Aug. 6	306	87-569		111	29-1111.
Aug. 13	360	87-581		203	22-3407, Repealed.
					22-3408, Repealed.
Aug. 14	385	87-585		1	Special.
Aug. 20	395	87-593		1	Special.
Aug. 24	398	87-596		1(a)	11-752.
				1(b)	11-771.
	398	87-596		2(a)	11-920.
	398	87-596		2(b)	11-920.
	398	87-596		3	11-752, 11-771, 11-920 notes.
	402	87-601		1	4-539.
	402	87-601		2	4-539.
	402	87-601		3	4-539 note.
Aug. 31	418	87-621		2	11-1510 Repealed.
	418	87-621		3	11-1510 note.
Sept. 5	435	87-633			1-4 Special.
Sept. 10	534	87-656		1	2-251 note.
	534	87-656		2	2-251.
	534	87-656		3	2-252.
	535	87-656		4	2-253.
	535	87-656		5	2-254.
	535	87-656		6	2-255.
	536	87-656		7	2-256.
	536	87-656		8	2-257.
	536	87-656		9	2-258.
	536	87-656		10	27-119a.
	537	87-656		11	27-125.
	437	87-656		12	2-259.
	537	87-656		13	2-260.
	537	87-656		14	2-251 note.
Sept. 25	580	87-686		1	35-1601.
	580	87-686		2	35-1602.
	580	87-686		3	35-1603.
	581	87-686		4	35-1604.
	581	87-686		5	35-1605.
	581	87-686		6	35-1606.
	582	87-686		7	35-1607.
	583	87-686		8	35-1608.
	584	87-686		9	35-1609.
	584	87-686		10	35-1610.
	584	87-686		11	35-1611.
	585	87-686		12	35-1612.
	585	87-686		13	35-1601 note.
	585	87-686		14	35-1601 note.
	589	87-691		1	4-156.
	589	87-691		2	4-159.
	591	87-691		3	4-156 last sentence repealed.
					4-156a repealed.
	591	87-691		4	4-160.
	591	87-691		5	4-160a.
	592	87-691		6	4-156 note.
	594	87-694		1	1-401 repealed.
	594	87-694		2	1-402 note, 1-502 note.
	596	87-697		1	4-404a.
	596	87-697		2	4-404a.
	596	87-697		3	4-821.
	596	87-697		4	4-408b.
	597	87-697		5	4-404a, 4-821, 4-408b notes.
	598	87-700		1	7-608.
	598	87-700		2	7-608 note.
	598	87-700		3	7-608 note.
Sept. 27	633	87-705		1(a)	46-303(c)(4)(i).
	633	87-705		1(b)	46-303(c)(5).
	633	87-705		1(c)	46-303(c)(9)(b).
	635	87-708		1	4-124.
	636	87-709		Enacting Clause	41-301 note.
	636	87-709		1	41-301 note.
	636	87-709		2	41-301.
	636	87-709		3	41-302.
	636	87-709		4	41-303.
	636	87-709		5	41-304.
	636	87-709		6	41-305.
	637	87-709		7	41-206.
	637	87-709		8	41-307.
	637	87-709		9	41-308.
	638	87-709		10	41-309.
	638	87-709		11	41-310.
	638	87-709		12	41-311.
	638	87-709		13	41-312.
	639	87-709		14	41-313.
	639	87-709		15	41-314.
	639	87-709		16	41-315.
	639	87-709		17	41-316.
	639	87-709		18	41-317.
	640	87-709		19	41-318.
	640	87-709		20	41-319.
	640	87-709		21	41-320.
	640	87-709		22	41-321.
	640	87-709		23	41-322.
	641	87-709		24	41-323.
	641	87-709		25	41-324.
	641	87-709		26	41-325.

VOLUME 76—Continued

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1962					
Sept. 27	641	87-709		27	41-326.
		87-709		28	41-327.
	642	87-709		29	41-328.
	642	87-709		30	41-329.
	642	87-709		31	41-330.
	642	87-709		32	41-331.
	643	87-709		33	41-332.
	643	87-709		34	41-333.
	643	87-709		35	41-334.
	644	87-709		36	41-335.
	644	87-709		37	41-336.
	644	87-709		38	41-337.
	645	87-709		39	41-338.
	646	87-709		40	41-339.
	646	87-709		41	41-340.
	647	87-709		42	41-341.
	648	87-709		43	41-342.
Sept. 28	655	87-716		Enacting clause	41-401 note.
	655	87-716		1	41-401.
	655	87-716		2	41-402.
	656	87-716		3	41-403.
	656	87-716		4	41-404.
	656	87-716		5	41-405.
	656	87-716		5	41-405.
	656	87-716		7	41-407.
	656	87-716		8	41-408.
	656	87-716		9	41-409.
	657	87-716		10	41-410.
	657	87-716		11	41-411.
	657	87-716		12	41-412.
	657	87-716		13	41-413.
	658	87-716		14	41-414.
	658	87-716		15	41-415.
	658	87-716		16	41-416.
	658	87-716		17	41-417.
	659	87-716		18	41-418.
	659	87-716		19	41-419.
	659	87-716		20	41-420.
	660	87-716		21	41-421.
	660	87-716		22	41-422.
	660	87-716		23	41-423.
	660	87-716		24	41-424.
	661	87-716		25	41-425.
	661	87-716		26	41-426.
	661	87-716		27	41-401 note.
	662	87-716		28	41-427.
	662	87-716		29	41-428.
	662	87-716		30	41-429.
	662	87-716		31	41-401, note, 41-101 to 41-109 repealed 41-111 repealed, 41-113 to 41-131 repealed.
Oct. 3	710	87-737		1	40-301.
	711	87-738		1	35-701.
	712	87-738		2	35-705b.
	715	87-739		1	35-535.
	715	87-739		2	35-1321.
	715	87-740		1	35-711.
	731	87-741	I	101	5-105a note.
	745	87-745		1	40-603.
Oct. 5	752	87-757		2	35-907.
Oct. 9	764	87-767		Preamble.	1-1410a note.
	765	87-767		1	1-1410a.
	766	87-767		2	1-1414 repealed.
	766	87-767		3	1-1410a note.
Oct. 11	907	87-797		1 to 5	Special.
	910	87-802		1	1 App. Reorg. Plan No. 5, 1952.
Oct. 15	914	87-807		1	3-201 note.
	914	87-807		2	3-201.
	914	87-807		3	3-202.
	914	87-807		4	3-203.
	915	87-807		5	3-204.
	915	87-807		6	3-205.
	915	87-807		7	3-206.
	916	87-807		8	3-207.
	916	87-807		9	3-208.
	916	87-807		10	3-209.
	916	87-807		11	3-210.
	916	87-807		12	3-211.
	917	87-807		13	3-212.
	917	87-807		14	3-213.
	917	87-807		15	3-214.
	917	87-807		16	3-215.
	917	87-807		17	3-216.
	918	87-807		18	3-217.
	918	87-807		19	3-218.
	919	87-807		20	3-219.
	919	87-807		21	3-220.
	919	87-807		22	3-221.
	919	87-807		23	3-222.
	919	87-807		24	3-201 note, 32-751 to 32-765 repealed. 46-101 to 46-116 repealed. 46-201 to 46-213 repealed.

Statutes at Large—Continued

VOLUME 76—Continued

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1962					
Oct. 15	919	87-807		25	3-201 note.
	920	87-807		26	3-223.
	920	87-807		27	3-201 note.
	938	87-821		1(1)	21-225.
	939	87-821		1(2)	21-226.
	940	87-821		1(3)	21-227.
	940	87-821		1(4)	21-228.
	941	87-821		1(5)	21-229.
	941	87-821		1(6)	21-230.
	942	87-821		1(7)	21-231.
	942	87-821		1(8)	21-232.
	942	87-821		1(9)	21-233.
	942	87-821		1(10)	21-234.
	942	87-821		1(11)	21-225 note.
	943	87-821		2	21-225 note.
	943	87-821		3	21-225 note.
	957	87-830		1	11-306a.
	957	87-830		2	11-306a note.
Oct. 16	1071	87-837		1	22-3423.
	1071	87-837		2	22-3424.
	1071	87-837		3	22-3425.
Oct. 23	1131	87-855		1	35-710.
	1131	87-855		2	35-710.
	1133	87-857		1	4-527.
	1154	87-867		7	1-263 note.
	1154	87-867		10	40-503 note.
	1154	87-867		11	1-243 note.
	1155	87-867		15	9-501, note, 11-749 note. 33-111 note.
	1171	87-873		1	11-751a.
	1171	87-873		2	11-755(a).
	1171	87-873		3	11-756(a).
	1172	87-873		4	11-756(c).
	1172	87-873		5(a)	11-1520 repealed.
	1172	87-873		5(b)(c)	11-1520a.
	1172	87-873		6	11-771a.
	1172	87-873		7	11-751a note, 11-755 note, 11-756 note, 11-771a note, 11-1520 note, 11-1520 note.

VOLUME 76—Continued

Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1962					
Oct. 24	1229	87-881	I	101(1)	31-1501.
	1231	87-881	I	101(2)	31-1511.
	1232	87-881	I	101(3)	31-1511.
	1232	87-881	I	101(4)	31-1521.
	1233	87-881	I	101(5)	31-1531(a).
	1233	87-881	I	101(6)	31-1531(b).
	1234	87-881	I	101(7)	31-1532(a).
	1234	87-881	I	101(8)	31-1533(a).
	1234	87-881	I	101(9)	31-1536.
	1234	87-881	I	101(10)	31-1542(a).
	1235	87-881	I	101(11)	31-1542(b).
	1235	87-881	I	101(12)	31-1543.
	1235	87-881	I	101(13)	31-1544.
	1235	87-881	I	101(14)	31-1545.
	1235	87-881	I	102	31-1502 repealed.
	1235	87-881	I	103	31-1501,31-1502 notes.
	1235	87-881	II	201	31-725b.
	1236	87-881	II	202(21)	31-739a.
	1236	87-881	II	202(22)	31-739b.
	1237	87-881	II	203(a)	31-725.
	1237	87-881	II	203(b)	31-729(b)(1).
	1237	87-881	II	203(c)	31-729(b)(2).
	1238	87-881	II	203(d)(1)	31-729(b)(3).
	1238	87-881	II	203(d)(2)	31-729 note.
	1238	87-881	II	203(e)	31-729(c)(2).
	1238	87-881	II	204	31-725, 31-725b, 31-729, 39-739b notes.
	1238	87-881	II	205	31-725b note, 31-725 note, 31-729 note.
	1239	87-882		1	4-823.
	1240	87-882		2	4-823c.
	1243	87-882		3(a)	4-826.
	1243	87-882		3(b)	4-826a.
	1243	87-882		3(c)	4-830.
	1243	87-882		3(d)	4-832.
	1243	87-882		4	4-823a repealed.
	1243	87-882		5	4-823 note.

TABLE OF CASES

References are to Sections

REVERSE TABLE OF CASES

90003 O—63——16

GENERAL INDEX

○